

§ 2045. Appropriations.

Such appropriations as may be required for the settlement of claims under this Act [sections 2041—2045 of this Appendix] are authorized. (Mar. 15, 1949, ch. 19, § 5, 63 Stat. 13.)

DEFENSE PRODUCTION ACT OF 1950

ACT SEPT. 8, 1950, CH. 932, 64 STAT. 798

Sec.

2061. Short title.

2062. Declaration of policy.

TITLE I—PRIORITIES AND ALLOCATIONS

2071. Priority in contracts and orders.

(a) Allocation of materials and facilities; limitation on slaughtered livestock; allocation of meat and meat products.

(b) Critical and strategic materials.

2072. Hoarding of designated scarce materials.

2073. Penalties.

2074. Limitation on import of fats and oils; termination date; exercise of authority.

TITLE II—AUTHORITY TO REQUISITION AND CONDEMN

2081. Requisition of property needed for national defense.

(a) Procedure; compensation.

(b) Condemnation of property needed for national defense; procedure; compensation.

(c) Disposition of real property.

(d) Disposition of personal property.

TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

2091. Loan guarantees.

(a) Purpose of loans; guaranteeing agencies.

(b) Fiscal agents; accountability; reimbursement.

(c) Supervision; interest, fees, procedures.

(d) Funds available for guarantees.

2092. Loans to private business enterprises.

2093. Purchase of raw materials and installation of equipment.

(a) Purchases for use or resale; development of strategic minerals and metals; agricultural commodities; termination date.

(b) Terms and conditions of purchase.

(c) Subsidy payments on domestically produced materials; exclusion of agricultural products.

(d) Transportation, storage, and processing.

(e) Installation of equipment in industrial facilities.

2094. Utilization and creation of agencies; borrowing from Treasury; revolving fund; contingent liability of United States.

TITLE IV—PRICE AND WAGE STABILIZATION

2101. Purposes of price and wage stabilization; cooperation by government agencies.

2102. Price and wage controls.

(a) Voluntary action.

(b) Price ceilings and stabilization of wages; when imposed.

(c) Factors considered in controlling prices and wages; statement in regulation or order; hardships or inequities.

(d) Contracts for future delivery; limitations as to wages; agricultural commodities.

(e) Prices and wages not subject to control.

(f) Exemptions by regulation or order.

(g) Changes in established business or cost practices or means or aids to distribution.

(h) Brand names; grade labeling; specifications or standards.

(i) Limitation of sales with reference to highest price line prohibited.

(j) Addition of State taxes to sale price.

(k) Retail selling margin; definition.

(l) State minimum prices.

Sec.

2102. Price and wage controls—Continued.

(m) Meat price ceilings of affiliated hotel supply houses.

(n) Ceilings on agricultural commodities and margin controls.

2103. Independent agency to administer price and wage controls and rationing.

(a) Economic Stabilization Agency.

(b) Wage Stabilization Board; creation; composition, tenure, and compensation; duties; effective date.

(c) Salary Stabilization Board; jurisdiction.

(d) Duties of Economic Stabilization Agency.

2104. Consultation with representatives of persons affected by regulations.

2105. Violation of title and regulations thereunder.

2106. Sales and performance of services not required.

2107. Objections to price control regulations; protests.

(a) Filing; hearing; grant or denial by President.

(b) Taking official notice of facts.

(c) Procedure; board of review; recommendations to President.

(d) Protest to be granted or denied within reasonable time; fixing of time by Emergency Court of Appeals.

2108. Emergency Court of Appeals to determine validity of regulations.

(a) Time for bringing action; procedure; conclusiveness of Presidential findings.

(b) Emergency Court of Appeals continued; jurisdiction and powers.

(c) Review by Supreme Court; exclusive jurisdiction.

(d) Stay of civil and criminal proceedings in other courts for determination of validity of regulation by Emergency Court of Appeals.

2109. Actions for violations.

(a) Injunctions.

(b) Criminal penalties.

(c) Recovery of overcharges by buyer or United States.

(d) Disallowance of fines, penalties, and compromise sums for tax and other purposes.

(e) Definition.

2110. Contracts for purchase of processed chickens or turkeys by government agencies.

2111. Reports on sales or services below ceiling prices.

2112. Suspension and termination of controls.

TITLE V—SETTLEMENT OF LABOR DISPUTES

2121. Intent of Congress.

2122. National policy; voluntary conferences.

2123. Due regard for collective bargaining and other laws.

TITLE VI—CONTROL OF REAL ESTATE CREDIT

2131. Repealed.

2132. Real estate construction credit.

(a) Regulations.

(b) Compliance with regulations; records and reports.

(c) Registration of transactions or persons.

(d) Definitions.

2133. Penalties.

2134. Consumer credit controls; investigations; injunctions; jurisdiction.

2135. Real estate loans by government agencies.

2136. Down-payment requirements on veterans' homes.

2137. Residential credit control; limitation; definition; publication; termination of relaxation period.

TITLE VII—GENERAL PROVISIONS

2151. Encouragement of small business; allocation of supplies to business.

2152. Definitions.

2153. Delegation of authority; creation of new agencies; appointment and compensation of officers and personnel; State representation in regional offices.

Sec.

- 2154. Rules, regulations, and orders.
- 2155. Investigations; records; reports; subpoenas; right to counsel.
- 2156. Jurisdiction of courts; injunctions; venue; process; effect of termination of Act.
- 2157. Liability for compliance with invalid regulations; discrimination against orders or contracts affected by priorities or allocations.
- 2158. Voluntary agreements and programs; exemptions from anti-trust laws and Federal Trade Commission Act; surveys and reports to Congress; termination.
- 2159. Exemption from Administrative Procedure Act; statements in rules, regulations, and orders as to consultation with industry representatives.
- 2160. Employment of personnel; use of confidential information by employees; printing and distribution of reports.
- 2161. Appropriations authorized; availability of funds.
- 2162. Joint Committee on Defense Production.
- 2163. Territorial application of Act.
- 2163a. Small Defense Plants Administration.
 - (a) Creation; independent agency; principal office; branches; definition; revolving fund; management; officers; termination date; depositaries.
 - (b) Powers; procurement contracts.
 - (c) False statements; overvaluation of securities; embezzlement, etc., penalties.
 - (d) Condemnation of small-business concerns; consultation with other Federal agencies.
 - (e) Additional powers.
 - (f) Certification of small-business concern as conclusive proportionment of business; allocation of materials and supplies; share of available civilian supply.
 - (g) Reports.
 - (h) Studies by Administration.
 - (i) Loans and advance to Administration.
 - (j) Transfer of functions.
 - (k) Conditions precedent for business loans, equipment, facilities, or services.
 - (l) Fair charge for use of Government-owned property.
 - (m) Appropriations.
- 2164. Separability of provisions.
- 2165. Persons disqualified for employment; penalties.
- 2166. Termination of Act.

AMENDMENTS

1952—Act June 30, 1952, ch. 530, title I, § 116 (a), 66 Stat. 305, amended title heading in table of contents by striking out "Consumer And" in title VI.

1951—Act July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 107, 65 Stat. 138, amended heading of title II by adding "And Condemn".

§ 2061. Short title.

This Act [sections 2061—2166 of this Appendix], divided into titles, may be cited as "the Defense Production Act of 1950". (Sept. 8, 1950, ch. 932, § 1, 64 Stat. 798.)

CROSS REFERENCES

Termination of sections 2061—2166 of this Appendix, see section 2166 of this Appendix.

§ 2062. Declaration of policy.

It is the policy of the United States to oppose acts of aggression and to promote peace by insuring respect for world law and the peaceful settlement of differences among nations. To that end this Government is pledged to support collective action through the United Nations and through regional arrangements for mutual defense in conformity with the Charter of the United Nations. The United States is determined to develop and maintain whatever military and economic strength is found to be

necessary to carry out this purpose. Under present circumstances, this task requires diversion of certain materials and facilities from civilian use to military and related purposes. It requires expansion of productive facilities beyond the levels needed to meet the civilian demand. In order that this diversion and expansion may proceed at once, and that the national economy may be maintained with the maximum effectiveness and the least hardship, normal civilian production and purchases must be curtailed and redirected.

It is the objective of this Act [sections 2061—2166 of this Appendix] to provide the President with authority to accomplish these adjustments in the operation of the economy. It is the intention of the Congress that the President shall use the powers conferred by this Act [sections 2061—2166 of this Appendix] to promote the national defense, by meeting, promptly and effectively, the requirements of military programs in support of our national security and foreign policy objectives, and by preventing undue strains and dislocations upon wages, prices, and production or distribution of materials for civilian use, within the framework, as far as practicable, of the American system of competitive enterprise. (Sept. 8, 1950, ch. 932, § 2, 64 Stat. 798.)

TITLE I—PRIORITIES AND ALLOCATIONS

§ 2071. Priority in contracts and orders—(a) Allocation of materials and facilities; limitation on slaughtered livestock; allocation of meat and meat products.

The President is authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the National Defense. No restriction, quota, or other limitation shall be placed upon the quantity of livestock which may be slaughtered or handled by any processor. Nor shall any restriction or other limitation be established or maintained upon the species, type, or grade of livestock killed by any slaughterer, nor upon the types of slaughtering operations, including religious rituals, employed by any slaughterer; nor shall any requirements or regulations be established or maintained relating to the allocation or distribution of meat or meat products unless, and for the period for which, the Secretary of Agriculture shall have determined and certified to the President that the over-all supply of meat and meat products is inadequate to meet the civilian or military needs therefor: *Provided*, That nothing in this Act [sections 2061—2166 of this Appendix] shall be construed to prohibit the President from requiring the grading and grade marking of meat and meat products.

(b) Critical and strategic materials.

When all requirements for the national security, for the stockpiling of critical and strategic materials, and for military assistance to any foreign nation authorized by any Act of Congress have been met through allocations and priorities it shall be the policy of the United States to encourage the maximum supply of raw materials for the civilian economy, including small business, thus increasing employment opportunities and minimizing inflationary pressures. No agreement shall be entered into by the United States limiting total United States consumption of any material unless such agreement authorizes domestic users in the United States to purchase the quantity of such material allocated to other countries participating in the International Materials Conference and not used by any such participating country. Nothing contained in this Act [sections 2061—2166 of this Appendix] shall impair the authority of the President under this Act [said sections] to exercise allocation and priorities controls over materials (both domestically produced and imported) and facilities through the controlled materials plan or other methods of allocation. (Sept. 8, 1950, ch. 932, title I, § 101, 64 Stat. 799; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 101 (a), 65 Stat. 132; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, §§ 101, 102, 66 Stat. 296.)

AMENDMENTS

1952—Act June 30, 1952 amended section by making former section subsection (a) and adding provisions relating to meat and meat products, and by adding subsection (b).

1951—Act July 31, 1951 amended section by adding provision relating to slaughtering of livestock.

SHORT TITLE

Congress in enacting act June 30, 1952, which amends the Defense Production Act of 1950, generally, provided by section 1 of said act June 30, 1952, that it should be popularly known as the "Defense Production Act Amendments of 1952". For distribution of said act June 30, 1952, see Tables Volume.

Congress in enacting amendments of sections 1884, 1892—1896, 1898, 1899, 2071, 2072, 2074, 2081, 2093, 2094, 2102, 2103, 2105, 2109, 2122, 2123, 2131, 2133, 2135, 2151, 2153—2156, 2160, and 2163a—2166 of this Appendix and repealing section 694f of Title 38, Pensions, Bonuses, and Veterans' Relief, provided by section 1 of act July 31, 1951 that they should be known as the "Defense Production Act Amendments of 1951."

ABOLISHMENT OF WAGE STABILIZATION BOARD AND CREATION OF NEW BOARD

The Wage Stabilization Board created by 1950 Ex. Ord. No. 10161, Sept. 9, 1950, 15 F. R. 6105, prior to amendment of that order by later executive orders, was abolished by section 2103 (b) (6) of this Appendix and a New Wage Stabilization Board was created by section 2103 (b) (1) of this Appendix. The order was subsequently amended to conform with such changes, and, as amended, is set out below.

CROSS REFERENCES

Discrimination against orders or contracts affected by priorities or allocations prohibited, see section 2157 of this Appendix.

ESTABLISHMENT AND FUNCTIONS OF NATIONAL PRODUCTION AUTHORITY

Secretary of Commerce by F. R. Doc. 50-8068, filed Sept. 13, 1950, 15 F. R. 6182 provided as follows:

"Section 1. Purpose. The purpose of this notice is to establish the organization necessary to carry out the

functions assigned to the Secretary of Commerce by Executive Order 10161, 'Delegating Certain Functions of the President Under the Defense Production Act [set out as a note under this section],' and is issued pursuant to the authority vested in the Secretary by such order and by Reorganization Plan No. 5 of 1950 [set out as a note under section 1332-15 of Title 5].

"Section 2. Establishment of National Production Authority. There is hereby established in the Department of Commerce a National Production Authority which shall be headed by an Administrator appointed by the Secretary. The National Production Administrator shall report and be responsible to the Secretary.

The National Production Authority shall perform the functions and exercise the powers vested in the Secretary of Commerce by Executive Order 10161, 'Delegating Certain Functions of the President Under the Defense Production Act of 1950 [set out as a note under this section].' These functions shall include but not be limited to: (1) Determination of the requirements for materials and commodities needed for defense, civilian, foreign, and all other purposes; and (2) formulation and execution of the policies and programs necessary for the fulfillment of such requirements.

"Section 3. Establishment and functions of the Advisory Committee on Priorities Administration. There is hereby established an Advisory Committee on Priorities Administration consisting of the Administrator as Chairman and representatives from the following agencies and such other agencies as the Secretary may designate from time to time: (1) Department of Defense; (2) Department of the Interior; (3) Department of Agriculture; (4) Department of State; (5) Department of Labor; (6) Department of the Treasury; (7) Office of International Trade (Department of Commerce); (8) Economic Cooperation Administration; (9) Atomic Energy Commission; and (10) Housing and Home Finance Agency.

The National Security Resources Board shall be invited to designate an observer to attend all meetings of the Advisory Committee on Priorities Administration.

The Advisory Committee on Priorities Administration shall serve in an advisory capacity with respect to policy and program matters affecting the interests of the represented agencies. More specifically, the Committee shall: (1) Consider all factors relevant to the determination of the direct and indirect military, civilian, and foreign requirements for essential and critical raw materials and industrial products; (2) recommend programs for the production and allocation of such materials and products; and (3) review proposed orders and regulations and perform such other functions as the Chairman may assign.

The Administrator, as Chairman, is authorized to: (1) Establish such subcommittees and working groups subsidiary to the Committee as he may determine to be necessary; and (2) establish rules and regulations governing the procedures and operations of the Committee and its sub-groups.

"Section 4. Organizational adjustments. The following industry divisions of the Office of Industry and Commerce of the Bureau of Foreign and Domestic Commerce, together with their personnel, are transferred to the National Production Authority: Iron and Steel; Metals and Minerals; Rubber; Textiles and Leather; Chemicals; Forest Products; Construction; Machinery and Equipment; General Products; Motion Pictures; Food; Petroleum; Fuels and Energy.

The Division of Small Business and the Marketing Division of the Office of Industry and Commerce are transferred to the National Production Authority, together with related personnel.

"Section 5. Administrative and Field Services. Pending further development of the organization and facilities of the National Production Authority and until otherwise directed, the central personnel, accounting, information, and other administrative service facilities of the Office of the Secretary shall provide administrative and other services to the National Production Authority.

In addition, any necessary field services will be provided by the Department Field Service pending development of a sufficient volume of field work to justify separate field offices for the National Production Authority.

"Section 6. Reemployment rights. All permanent employees of the Office of Industry and Commerce who are transferred by the terms of this order to the National Production Authority and who remain with that organization and perform satisfactory service shall be entitled to reemployment rights in an appropriate position of at least the same grade held on the effective date of this order, when the transferred functions are returned to that Office. Other permanent employees of the Department who are transferred individually to the National Production Authority shall be entitled to reemployment rights under the same terms in the bureau or office from which transferred when their services are no longer needed in the National Production Authority.

"Section 7. Internal organization. The temporary internal organization of the National Production Authority shall consist of the following: (1) Administrator; (2) Deputy Administrator; (3) General Counsel; (4) Executive Officer; (5) Director of Public Information; (6) Office of Civilian Requirements; (7) Office of Labor Production; (8) Office of Manpower Requirements; (9) Office of Small Business; (10) Assistant Administrator for Program Determination; and (11) Assistant Administrator for Industry Operations.

"Section 8. Status in the Department. The National Production Authority shall operate as a primary organization unit of the Department of Commerce and shall be administered in conformance with established Departmental policies, regulations and procedures as set forth in the Department of Commerce 'Manual of Orders.'

"Section 9. Records transfer. All records remaining in the custody of the Department of Commerce relating to the War Production Board and its predecessor and successor agencies and transferred to the Department by Executive Order 9841 of April 23, 1947, are transferred to the custody and use of the National Production Authority."

EX. ORD. NO. 10161. DELEGATION OF PRESIDENT'S FUNCTIONS

Ex. Ord. No. 10161, Sept. 9, 1950, 15 F. R. 6105, as amended by Ex. Ord. No. 10200, Jan. 3, 1951, 16 F. R. 61; Ex. Ord. No. 10233, Apr. 23, 1951, 16 F. R. 3503; Ex. Ord. No. 10281, Aug. 28, 1951, 16 F. R. 8789; Ex. Ord. No. 10301, Nov. 5, 1951, 16 F. R. 11257; Ex. Ord. No. 10324, Feb. 6, 1952, 17 F. R. 1171, and Ex. Ord. No. 10359, June 9, 1952, 17 F. R. 5269; Ex. Ord. No. 10373, July 15, 1952, 17 F. R. 6425; Ex. Ord. No. 10377, July 28, 1952, 17 F. R. 6891; and Ex. Ord. No. 10390, Sept. 2, 1952, 17 F. R. 7995, provided:

By virtue of the authority vested in me by the Constitution and statutes, including the Defense Production Act of 1950 [sections 2061—2166 of this Appendix], and as President of the United States and Commander in Chief of the armed forces, it is hereby ordered as follows:

PART I—PRIORITIES AND ALLOCATIONS

SECTION 101. The functions conferred upon the President by Title I of the Defense Production Act of 1950 [sections 2071—2074 of this Appendix] are hereby delegated as follows:

(a) To the Secretary of the Interior with respect to petroleum, gas, solid fuels, and electric power.

(b) To the Secretary of Agriculture with respect to food, and with respect to the domestic distribution of farm equipment and commercial fertilizer.

(c) To that commissioner of the Interstate Commerce Commission who is responsible for the supervision of the Bureau of Service of the Commission, with respect to domestic transportation, storage, and port facilities, or the use thereof, but excluding air transport, coastwise, intercoastal, and overseas shipping.

(d) To the Secretary of Commerce with respect to all materials and facilities except as provided in paragraphs (a), (b), and (c) of this section 101.

SEC. 102. Each delegate referred to in section 101 of this Executive order shall, in connection with carrying out the priorities and allocations functions delegated to him by such section, (a) receive from appropriate agencies of the Government information relating to the direct and indirect military, other governmental, civilian, and foreign requirements for materials and facilities, (b) review

and evaluate such requirements in the light of available materials and facilities, and (c) exercise his priorities and allocations powers in such manner as will in his judgment promote adequate supplies and their proper distribution.

SEC. 103. (a) Each delegate referred to in section 101 of this Executive order shall be a claimant before the other such delegates, respective, in the case of materials and additional facilities deemed by the claimant delegate to be necessary for the provision of an adequate supply of the materials and facilities with respect to which delegation is made to the claimant delegate by the said section 101.

(b) Each delegate under section 101 of this Executive order may, with the approval of the Chairman of the National Security Resources Board, designate agencies and officers of the Government, additional to the claimants referred to in section 103 (a) of this Executive order, to be claimants before such delegate with respect to stated materials and facilities.

PART II—REQUISITIONING

SEC. 201. (a) Except as provided in section 201 (b) of this Executive order, the functions conferred upon the President by title II of the Defense Production Act of 1950 [section 2081 of this Appendix] are hereby delegated to the officers to whom functions are delegated by section 101 of this Executive order, respectively, according to the designations of materials and facilities set forth in paragraphs (a), (b), (c), and (d) of the said section 101.

(b) The functions conferred upon the President by sections 201 (c) and 201 (d) of the Defense Production Act of 1950, as amended [section 2081 (c) and (d) of this Appendix], exclusive of determinations with respect to the termination of the need for the national defense of any property acquired under Title II of the said Act (before or after amendment of the said Title II) [section 2081 of this Appendix], are hereby delegated to the Administrator of General Services.

PART III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

SEC. 301. The Department of the Army, the Department of the Navy, the Department of the Air Force, the Atomic Energy Commission, the Department of Commerce, the Department of the Interior, the Department of Agriculture, the Defense Materials Procurement Agency, and the General Services Administration, in this Part referred to as guaranteeing agencies, and each delegate under section 101 of this Executive order shall develop and promote measures for the expansion of productive capacity and of production and supply of materials and facilities necessary for the national defense.

SEC. 302. (a) Each guaranteeing agency is hereby authorized, in accordance with section 301 of the Defense Production Act of 1950 [section 2091 of this Appendix] subject to the provisions of this section, in order to expedite production and deliveries or services under Government contracts, and without regard to provisions of law relating to the making, performance, amendment, or modification of contracts, to guarantee in whole or in part any public or private financing institution (including any Federal Reserve Bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made by such financing institution for the purpose of financing any contractor, subcontractor, or other person in connection with the performance, or in connection with or in contemplation of the termination, of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense.

(b) Each Federal Reserve Bank is hereby designated and authorized to act, on behalf of any guaranteeing agency, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of the said section 301 [section 2091 of this Appendix], in respect of private financing institutions.

(c) All actions and operations of Federal Reserve Banks, under authority of or pursuant to the said section 301 of the Defense Production Act of 1950 [section 2091 of this Appendix], shall be subject to the supervision of the Board of Governors of the Federal Reserve System. Said Board is hereby authorized, after consultation with the heads of the guaranteeing agencies, (1) to prescribe such regulations governing the actions and operations of fiscal agents hereunder as it may deem necessary, (2) to prescribe, either specifically or by maximum limits or otherwise, rates of interest guarantee and commitment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through such fiscal agents, and (3) to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

SEC. 303. The Defense Materials Procurement Administrator is hereby authorized and directed to purchase and make commitments to purchase metals, minerals, and other materials, for Government use or resale, as authorized by and subject to the provisions of section 303 of the Defense Production Act of 1950, as amended [section 2093 of this Appendix]: *Provided*, That the Secretary of Agriculture may also exercise the said functions under section 303 of the said Act, as amended [said section], with respect to food, and with respect to plant fibers (except abaca) not included in the definition of food to the extent that the procurement of such fibers involves the encouragement and development of sources of supply within the United States and its Territories and possessions.

SEC. 304. The Defense Materials Procurement Administrator is hereby authorized and directed to encourage the exploration, development, and mining of critical and strategic minerals and metals, as authorized by and subject to the provisions of section 303 of the Defense Production Act of 1950, as amended [section 2093 of this Appendix].

SEC. 305. The Defense Materials Procurement Administrator is hereby authorized and directed to make subsidy payments, to determine the amounts, manner, terms, and conditions thereof, and to make findings, as authorized by and subject to the provisions of section 303 (c) of the Defense Production Act of 1950, as amended [section 2093 (c) of this Appendix].

SEC. 306. The functions conferred upon the President by section 303 (e) of the Defense Production Act of 1950, as amended [section 2093 (e) of this Appendix], with respect to the installation of additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and with respect to the installation of government-owned equipment in plants, factories, and other industrial facilities owned by private persons, are hereby delegated to the Defense Materials Procurement Administrator.

SEC. 307. The functions conferred upon the Defense Materials Procurement Administrator by sections 303 to 306, inclusive, of this Executive order shall be carried out in accordance with programs certified to the said Administrator by the Defense Production Administrator: *Provided*, That any exercise by the Defense Materials Procurement Administrator of the functions provided for in section 303 hereof with respect to food shall be carried out in accordance with programs certified to him by the Secretary of Agriculture: *And provided further*, That the functions conferred upon the Secretary of Agriculture by section 303 hereof with respect to plant fibers (except abaca) not included in the definition of food shall be carried out in accordance with programs certified to the Secretary by the Defense Production Administrator.

SEC. 308. All functions provided for in sections 303 to 306, inclusive, of this Executive order shall be carried out within such amounts of funds as may be made available pursuant to the Defense Production Act of 1950, as amended [sections 2061—2166 of this Appendix].

SEC. 309. The Economic Stabilization Administrator may from time to time recommend to appropriate agencies of the Government the use for stabilization purposes of subsidies authorized by the Defense Production Act of

1950, as amended [sections 2061—2166 of this Appendix].

SEC. 310. (a) The Reconstruction Finance Corporation is hereby authorized and directed to make loans (including participations in, or guarantees of, loans) to private business enterprises (including research corporations not organized for profit) for the expansion of capacity, the development of technological processes, and the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, exclusive of such expansion, development and production in foreign countries, as authorized by and subject to section 302 of the Defense Production Act of 1950, as amended [section 2092 of this Appendix], and within such amounts of funds as may be made available pursuant to the Defense Production Act of 1950, as amended [sections 2061—2166 of this Appendix].

(b) Loans under section 310 (a) hereof (1) shall be made upon such terms and conditions as the Corporation shall determine, (2) shall be made only after the Corporation has determined in each instance that financial assistance is not available on reasonable terms from private sources or from other governmental sources, and (3) except in the case of working capital loans (involving no more than minor expansion of capacity which is incidental to a loan for working capital) shall be made only upon certificate of essentiality of the loan, which certificate shall be made (a) by the Secretary of Agriculture with respect to food and food facilities, and with respect to plant fibers (except abaca) not included in the definition of food, and facilities therefor, in instances involving the encouragement and development of sources of supply of such fibers within the United States and its Territories and possessions and to the extent that such loans are a part of and in accordance with the terms of a program certified by the Defense Production Administrator pursuant to section 307 hereof, and (b) by the Defense Production Administrator with respect to all other materials and facilities.

(c) Applications for loans under section 310 (a) hereof shall be received from applicants by the Corporation or by such agencies of the Government as the Corporation shall designate for this purpose.

SEC. 311. (a) The Export-Import Bank of Washington is hereby authorized and directed to make loans (including participations in loans) to private business enterprises, for the expansion of capacity, the development of technological processes, and the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, in those cases where such expansion, development or production is carried on in foreign countries, as authorized by and subject to section 302 of the Defense Production Act of 1950, as amended [section 2092 of this Appendix], and within such amounts of funds as may be made available pursuant to the Defense Production Act of 1950, as amended [sections 2061—2166 of this Appendix].

(b) Loans under section 311 (a) hereof (1) shall be made upon such terms and conditions as the said Bank shall determine, (2) shall be made only after the Bank has determined in each instance that financial assistance is not available on reasonable terms from private sources and that the loan involved cannot be made under the provisions of and from funds available to the Bank under the Export-Import Bank Act of 1945, as amended, and (3) shall be made only upon certificate of essentiality of the loan, which certificate shall be made (a) by the Secretary of Agriculture with respect to food and food facilities, and with respect to plant fibers (except abaca) not included in the definition of food, and facilities therefor, in instances involving the encouragement and development of sources of supply of such fibers within the United States and its Territories and possessions and to the extent that such loans are a part of and in accordance with the terms of a program certified by the Defense Production Administrator pursuant to section 307 hereof, and (b) by the Defense Production Administrator with respect to all other materials and facilities.

(c) Applications for loans under section 311 (a) hereof shall be received from applicants by the said Bank or by such agencies of the Government as the Bank shall designate for this purpose.

PART IV—ECONOMIC STABILIZATION

SEC. 401. (a) There is hereby created a new and independent agency to be known as the Economic Stabilization Agency, hereafter in this Part referred to as the Agency. There shall be at the head of the Agency an Economic Stabilization Administrator, hereafter in this Part referred to as the Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Administrator shall seek to preserve and maintain the stabilization of the economy. To this end he shall:

(1) Plan and develop both short and long-range price and wage stabilization policies and measures and create the necessary organization for their administration.

(2) Inform the public, agriculture, industry and labor concerning the need for stabilization and encourage and promote voluntary action to this end.

(3) Consult and advise with the Government officials responsible for procurement, production, manpower, and rent control, and for fiscal, credit and monetary policies, concerning measures within their jurisdiction which will assist stabilization.

(4) Establish price ceilings and stabilize wages and salaries where necessary.

(c) The functions conferred upon the President by Title IV of the Defense Production Act of 1950 [sections 2101—2112 of this Appendix] are hereby delegated to the Administrator.

SEC. 402. There shall be in the Agency a Director of Price Stabilization, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions with respect to price stabilization as may be determined by the Administrator.

SEC. 403 (a). The Wage Stabilization Board created by section 403 (b) of the Defense Production Act of 1950, as amended [section 2103 (b) of this Appendix], shall be composed of eighteen (18) members, who shall be appointed by the President by and with the advice and consent of the Senate. The said Board shall be composed in equal numbers of members representative of the general public, members representative of labor, and members representative of business and industry. A chairman and a Vice Chairman of the Board shall be designated by the President from among the members representative of the general public.

(b) In addition to the members of the Wage Stabilization Board provided for in section 403 (a) of this order, the Board shall have not more than two alternate members who shall be representative of labor and not more than two alternate members who shall be representative of business and industry. Alternate members shall be appointed by the President, by and with the advice and consent of the Senate, at such times as he may deem necessary. Any alternate member shall participate as a member of the Board only in lieu of a member appointed under section 403 (a) of this order who is not participating, and only when called upon by the Chairman of the Wage Stabilization Board to so participate, and when so participating each alternate member shall have the same status and functions as a member appointed under the said section 403 (a). The designation by the Chairman of the Board of alternate members to participate as members of the Board shall be so ordered as to preserve the equal representation required by the provisions of section 403 (a) hereof and of section 403 (b) of the Defense Production Act of 1950, as amended [section 2103 (b) of this Appendix].

(c) In performing any of its functions, the Wage Stabilization Board shall be under the supervision and direction of the Economic Stabilization Administrator.

PART V—REAL ESTATE CREDIT

SEC. 501. (a) Subject to the provisions of section 501 (b) of this Executive order, the functions conferred upon the President by section 602 of the Defense Production Act of 1950 [section 2132 of this Appendix] are hereby delegated to the Board of Governors of the Federal Reserve System.

(b) The said Board shall obtain the concurrence of the Housing and Home Finance Administrator with respect to provisions relating to real estate construction credit involving residential property before prescribing, changing, or suspending any real estate construction credit regulation pursuant to the authority of section 602 of the Defense Production Act of 1950 [section 2132 of this Appendix].

SEC. 502. (a) The functions conferred upon the President by section 605 of the Defense Production Act of 1950 [section 2135 of this Appendix], to the extent that such functions relate to loans on real estate involving residential property, are hereby delegated to the Housing and Home Finance Administrator.

(b) In carrying out the functions delegated by section 502 (a) of this Executive order, and under the authority so delegated or under authority vested in him by any applicable law, the Administrator shall from time to time issue such regulations and take such other action as may be necessary to insure (1) that the restrictions imposed on real estate construction credit by the provisions of the regulations issued from time to time by the Board of Governors of the Federal Reserve System (with the concurrence of the Housing and Home Finance Administrator in the provisions of such regulations relating to credit involving residential property) under the authority delegated by section 501 of this Executive order shall be applicable to the fullest extent practicable with respect to loans on real estate (of the types referred to in section 605 of the Defense Production Act of 1950 [section 2135 of this Appendix]) involving residential property, and (2) that the relative credit preferences accorded to veterans under existing law are preserved in accordance with the provisions of section 605 of the Defense Production Act of 1950 [section 2135 of this Appendix].

SEC. 503. (a) Except as otherwise provided in section 503 (b) of this Executive order, the functions conferred upon the President by section 607 of the Defense Production Act of 1950, as amended [sections 1715g and 1715h of Title 12], are hereby delegated to the Board of Governors of the Federal Reserve System. The Board shall perform the functions delegated by this subsection subject to the concurrence of the Housing and Home Finance Administrator and upon the basis of estimates made pursuant to section 503 (b) of this Executive order.

(b) The Secretary of Labor shall, pursuant to section 607 of the Defense Production Act of 1950, as amended [sections 1715g and 1715h of Title 12], make estimates of the number of permanent, non-farm, family dwelling units the construction of which has been started during each calendar month, and, on the basis of such estimates, make estimates of the annual rate of construction starts during each such month, after making reasonable allowance for seasonal variations in the rate of construction. The Secretary shall transmit the said estimates to the Board of Governors of the Federal Reserve System.

(c) The concurrence of the Housing and Home Finance Administrator specified in section 501 (b) of this Executive Order shall not be necessary to the prescribing, changing, or suspending of the provisions of any regulation of the Board of Governors of the Federal Reserve System issued pursuant to section 501 hereof with respect to extensions of credit during any "period of residential credit control relaxation" announced pursuant to the said section 607 [sections 1715g and 1715h of Title 12], and the requirements of section 502 (b) hereof shall not be applicable during any such period.

PART VI—LABOR SUPPLY

SEC. 601. The Secretary of Labor shall utilize the functions vested in him so as to meet most effectively the labor needs of defense industry and essential civilian employment, and to this end he shall:

(a) Assemble and analyze information on labor requirements for defense and other activities and on the supply of workers.

(b) Consult with and advise each delegate referred to in section 101 of this Executive order and each official exercising guarantee or loan functions under Part III of this Executive order concerning (1) the effect of con-

templated actions on labor supply and utilization, (2) the relation of labor supply to materials and facilities requirements, (3) such other matters as will assist in making the exercise of priority and allocations functions consistent with effective utilization and distribution of labor.

(c) Formulate plans, programs, and policies for meeting defense and essential civilian labor requirements.

(d) Utilize the public employment service system, and enlist the cooperation and assistance of management and labor to carry out these plans and programs and accomplish their objectives.

(e) Determine the occupations critical to meeting the labor requirements of defense and essential civilian activities and with the Secretary of Defense, the Director of Selective Service, and such other persons as the President may designate develop policies applicable to the induction and deferment of personnel for the armed services, except for civilian personnel in the reserves.

PART VII—VOLUNTARY AGREEMENTS

SEC. 701. (a) The functions conferred upon the President by section 708 (a) of the Defense Production Act of 1950 [section 2153 (a) of this Appendix] are hereby delegated as follows:

(1) To the Secretaries of the Interior, Agriculture, and Commerce, and to the commissioner of the Interstate Commerce Commission referred to in section 101 of this Executive order, respectively, according to the designations of materials and facilities set forth in paragraphs (a), (b), (c), and (d) of such section 101.

(2) To the Board of Governors of the Federal Reserve System with respect to financing.

(3) To the Economic Stabilization Administrator with respect to stabilization.

(b) The functions conferred upon the President by section 708 (b) of the Defense Production Act of 1950 [section 2158 of this Appendix] are hereby delegated as follows:

(1) To the Secretary of Commerce in respect of Title I of the Defense Production Act of 1950 [sections 2071—2074 of this Appendix].

(2) In other respects to the delegates referred to in section 701 (a) of this Executive order, respectively, according to the provisions of paragraphs (1), (2), and (3) thereof.

(c) The delegation of authority made by section 701 (b) of this Executive order is subject to the conditions (1) that each delegate concerned shall consult with the Attorney General and the Chairman of the Federal Trade Commission not less than ten days before making any request or finding under section 708 (b) of the Defense Production Act of 1950 [section 2158 (b) of this Appendix], (2) that each delegate concerned shall obtain the approval of the Attorney General to any request under said section 708 (b) [section 2158 (b) of this Appendix], before making the request, and (3) that the authority delegated may not be redelegated.

PART VIII—COORDINATION

SEC. 801. In the interest of consistent and coordinated administration of functions delegated by this Executive order, each officer to whom functions are delegated shall be guided by such policies and program directives as the President may from time to time prescribe.

SEC. 802. All functions delegated or assigned by or pursuant to this Executive order, or by or pursuant to any other Executive order provision amendatory or supplementary to this Executive order, including any such provision in an Executive order hereafter promulgated, shall be performed, by the respective officers and agencies concerned, subject to the direction, control, and coordination of the Director of Defense Mobilization.

SEC. 803. The Council of Economic Advisers shall adapt its continuing studies of employment, production and purchasing power needs and objectives so as to furnish guides to the agencies under this Executive order in promoting balance between defense and civilian needs and in avoiding inflation in a stable and growing economy. In the performance of this function, the

Council shall obtain necessary information from the agencies concerned and engage in regular consultation with them.

PART IX—GENERAL PROVISIONS

SEC. 901. As used in this Executive order:

(a) The term "functions" includes powers, duties, authority, responsibilities, and discretion.

(b) The term "materials" includes raw materials, articles, commodities, products, supplies, components, technical information, and processes, but excludes fissionable materials as defined in the Atomic Energy Act of 1946 [sections 1801—1819 of Title 42].

(c) The term "petroleum" shall mean crude oil and synthetic liquid fuel, their products, and associated hydrocarbons, including pipelines for the movement thereof.

(d) The term "gas" shall mean natural gas and manufactured gas, including pipelines for the movement thereof.

(e) The term "solid fuels" shall mean all forms of anthracite, bituminous, sub-bituminous, and lignitic coals; coke; and coal chemicals.

(f) The term "electric power" shall mean all forms of electric power and energy, including the generation, transmission, distribution, and utilization thereof.

(g) The term "metals and minerals" shall mean all raw materials of mineral origin, including their refining and processing but excluding their fabrication.

(h) The term "food" shall mean all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being eaten or drunk by either human beings or animals. Irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for immediate human or animal consumption. For the purposes of this Executive order the term "food" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

(i) The term "farm equipment" shall mean equipment manufactured for use on farms in connection with the production or processing of food.

(j) The term "fertilizer" shall mean fertilizer in form for distribution to the users thereof.

(k) The term "domestic transportation, storage, and port facilities" shall include locomotives, cars, motor vehicles, watercraft used on inland waterways, in harbors, and on the Great Lakes, and other vehicles, vessels, and all instrumentalities of shipment or carriage, irrespective of ownership, and all services in or in connection with the carriage of persons or property in intrastate, interstate, or foreign commerce within the United States, its Territories and possessions, and the District of Columbia, except movement of petroleum and gas by pipeline; and warehouses, piers, docks, wharves, loading and unloading equipment, and all other structures and facilities used in connection with the transshipment of persons and property between domestic carriers and carriers engaged in coastwise, intercoastal, and overseas transportation.

(l) The term "Defense Production Act of 1950" [sections 2061—2166 of this Appendix] includes, except as may be inappropriate, the Defense Production Act of 1950, as amended [said sections].

SEC. 902. (a) Except as otherwise provided in section 902 (c) of this Executive order, each officer or agency having functions under the Defense Production Act of 1950 [sections 2061—2166 of this Appendix] delegated or assigned thereto by this Executive order may exercise and perform, with respect to such functions, the functions vested in the President by Title VII of the said Act [sections 2151—2166 of this Appendix].

(b) The functions which may be exercised and performed pursuant to the authority of section 902 (a) of this Executive order shall include, but not by way of limitation, (1) except as otherwise provided in section 701 (c) of this Executive order, and except as otherwise required by section 403 of the Defense Production Act of

1950 [section 2103 of this Appendix], the power to redelegate functions, and to authorize the successive redelegation of functions, to agencies, officers, and employees of the Government, (2) the power to create an agency or agencies, under the jurisdiction of the officer concerned, to administer functions delegated by this Executive order, and (3) in respect of Parts I, II, IV, and V of this Executive order, the power of subpoena: *Provided*, That the subpoena power shall be utilized only after the scope and purpose of the investigation, inspection, or inquiry to which the subpoena relates have been defined either by the appropriate officer referred to in section 902 (a) of this Executive order or by such other person or persons as he shall designate.

(c) There are excluded from the functions delegated by section 902 (a) of this Executive order (1) the functions delegated by Part VII of this Executive order, (2) the functions of the President under sections 703 (b) and 710 (a) of the Defense Production Act of 1950 [sections 2153 (b) and 2160 (a) of this Appendix], (3) the functions of the President with respect to regulations under sections 710 (b), 710 (c), and 710 (d) of the said Act [section 2160 (b)—(d) of this Appendix], and (4) the functions of the President with respect to fixing compensation under section 703 (a) of the said Act [section 2153 (a) of this Appendix].

(d) The functions conferred upon the President by section 710 (a) of the Defense Production Act of 1950 [section 2160 (a) of this Appendix] are hereby delegated as follows:

(1) Each officer or agency having functions under the said Act [sections 2061—2166 of this Appendix] delegated or assigned to such officer or agency by this Executive order shall submit to the Chairman of the United States Civil Service Commission such requests for classification of positions in grades 16, 17, and 18 of the General Schedule as may be necessary, and shall accompany any such request with a certificate stating that the duties of the position are essential and appropriate for the administration of the said Act [sections 2061—2166 of this Appendix].

(2) Each requested position shall be placed in the appropriate grade of the General Schedule in accordance with the standards and procedures of the Classification Act of 1949 [sections 1071—1153 of Title 5]. No person shall be employed in a position of grade 16, 17, or 18 under authority of section 710 (a) of the Defense Production Act of 1950 [section 2160 (a) of this Appendix], except pursuant to notice of the Chairman of the United States Civil Service Commission of the classification of this position.

SEC. 903. All agencies of the Government (including departments, establishments, and corporations) shall furnish to each officer to whom functions are delegated or assigned by this Executive order such information relating to defense production or procurement, or otherwise relating to the functions delegated or assigned to such officer by this Executive order, as he may deem necessary.

SEC. 904. Each delegate referred to in section 101 of this Executive order shall, when and if he shall deem it necessary and appropriate, appoint a committee composed of representatives of such agencies of the Government as he may determine. Any committee so appointed shall advise and consult with the delegate concerned, as he may request, in connection with the carrying out of the functions delegated to him by sections 101, 201, and 302 of this Executive order, and shall advise the delegate concerned regarding requirements of materials and facilities.

EX. ORD. NO. 10233. AMENDMENT OF EX. ORD. NO. 10161 WITH RESPECT TO WAGE STABILIZATION AND SETTLEMENT OF LABOR DISPUTES

Ex. Ord. No. 10233, Apr. 23, 1951, 16 F. R. 3503, provided: SECTION 1. [This section amended Ex. Ord. 10161 set out as a note under this section by adding new sections 403—410.]

SEC. 2. All orders, regulations, rules, certificates, directives, and other actions relating to any function affected by the amendment made by the provisions of section 1 of this Executive order (including the appointments of

members of the Board in office on the date hereof) shall remain in effect except as they are inconsistent herewith or are hereafter amended, revoked, or terminated under proper authority.

SEC. 3. Nothing in this Executive order shall be deemed to supersede any provision of Executive Order No. 10193 of December 16, 1950 [set out as a note under section 2154 of this Appendix].

SEC. 4. No action inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended [sections 201—219 of Title 29], other Federal labor standards statutes, the Labor-Management Relations Act, 1947 [sections 141—197, Title 29], or with other applicable laws shall be taken under this Executive order.

§ 2072. Hoarding of designated scarce materials.

In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation. The President shall order published in the Federal Register, and in such other manner as he may deem appropriate, every designation of materials the accumulation of which is unlawful and any withdrawal of such designation.

In making such designations the President may prescribe such conditions with respect to the accumulation of materials in excess of the reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this Act [sections 2061—2166 of this Appendix]. This section shall not be construed to limit the authority contained in sections 101 and 704 of this Act [sections 2071 and 2154 of this Appendix]. (Sept. 8, 1950, ch. 932, title I, § 102, 64 Stat. 799; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 101 (b), 65 Stat. 132.)

AMENDMENTS

1951—Act July 31, 1951 amended section to authorize the President to prescribe conditions and exceptions allowing the maintenance of substantial inventories of critical materials in certain cases.

§ 2073. Penalties.

Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title [sections 2071—2074 of this Appendix] or any rule, regulation, or order thereunder, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both. (Sept. 8, 1950, ch. 932, title I, § 103, 64 Stat. 799.)

§ 2074. Limitation on import of fats and oils; termination date; exercise of authority.

Import controls of fats and oils (including oil-bearing materials, fatty acids, and soap and soap powder, but excluding petroleum and petroleum products and coconuts and coconut products), peanuts, butter, cheese and other dairy products, and rice and rice products are necessary for the protection of the essential security interests and economy of the United States in the existing emergency in international relations, and imports into the United States of any such commodity or product, by types

or varieties, shall be limited to such quantities as the Secretary of Agriculture finds would not (a) impair or reduce the domestic production of any such commodity or product below present production levels, or below such higher levels as the Secretary of Agriculture may deem necessary in view of domestic and international conditions, or (b) interfere with the orderly domestic storing and marketing of any such commodity or product, or (c) result in any unnecessary burden or expenditures under any Government price support program: *Provided, however,* That the Secretary of Agriculture after establishing import limitations, may permit additional imports of each type and variety of the commodities specified in this section, not to exceed 15 per centum of the import limitation with respect to each type and variety which he may deem necessary, taking into consideration the broad effects upon international relationships and trade. The President shall exercise the authority and powers conferred by this section. (Sept 8, 1950, ch. 932, title I, § 104, as added July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 101 (c), 65 Stat. 132, and amended June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 103, 66 Stat. 297.)

AMENDMENTS

1952—Act June 30, 1952 amended section to specifically provide that import controls could be exercised with respect to types and varieties of a commodity or product, and to authorize the Secretary of Agriculture to increase import limitations up to an additional 15 per cent.

TITLE II—AUTHORITY TO REQUISITION AND CONDEMN

AMENDMENTS

1951—Act July 31, 1951, ch. 275, title I, § 102 (a), 65 Stat. 132, amended heading by adding "And Condemn".

§ 2081. Requisition of property needed for national defense—(a) Procedure; compensation.

Whenever the President determines (1) that the use of any equipment, supplies, or component parts thereof, or materials or facilities necessary for the manufacture, servicing, or operation of such equipment, supplies, or component parts, is needed for the national defense, (2) that such need is immediate and impending and such as will not admit of delay or resort to any other source of supply, and (3) that all other means of obtaining the use of such property for the defense of the United States upon fair and reasonable terms have been exhausted, he is authorized to requisition such property or the use thereof for the defense of the United States upon the payment of just compensation for such property or the use thereof to be determined as hereinafter provided. The President shall promptly determine the amount of the compensation to be paid for any property or the use thereof requisitioned pursuant to this title [this section] but each such determination shall be made as of the time it is requisitioned in accordance with the provision for just compensation in the fifth amendment to the Constitution of the United States. If the person entitled to receive the amount so determined by the President as just compensation is unwilling to accept the same

as full and complete compensation for such property or the use thereof, he shall be paid promptly 75 per centum of such amount and shall be entitled to recover from the United States, in an action brought in the Court of Claims or, without regard to whether the amount involved exceeds \$10,000, in any district court of the United States, within three years after the date of the President's award, an additional amount which, when added to the amount so paid to him, shall be just compensation. No real property (other than equipment and facilities, and buildings and other structures, to be demolished and used as scrap or second-hand materials) shall be acquired under this subsection.

(b) Condemnation of property needed for national defense; procedure; compensation.

Whenever the President deems it necessary in the interest of national defense, he may acquire by purchase, donation, or other means of transfer, or may cause proceedings to be instituted in any court having jurisdiction of such proceedings to acquire by condemnation, any real property, including facilities, temporary use thereof, or other interest therein, together with any personal property located thereon or used therewith, that he deems necessary for the national defense, such proceedings to be in accordance with the Act of August 1, 1888 (25 Stat. 357), as amended, or any other applicable Federal statute. Before condemnation proceedings are instituted pursuant to this section, an effort shall be made to acquire the property involved by negotiation unless, because of reasonable doubt as to the identity of the owner or owners, because of the large number of persons with whom it would be necessary to negotiate, or for other reasons, the effort to acquire by negotiation would involve, in the judgment of the President, such delay in acquiring the property as to be contrary to the interest of national defense. In any condemnation proceeding instituted pursuant to this section, the court shall not order the party in possession to surrender possession in advance of final judgment unless a declaration of taking has been filed, and a deposit of the amount estimated to be just compensation has been made, under the first section of the Act of February 26, 1931 (46 Stat. 1421) [section 258a of Title 40], providing for such declarations. Unless title is in dispute, the court, upon application, shall promptly pay to the owner at least 75 per centum of the amount so deposited, but such payment shall be made without prejudice to any party to the proceeding. Property acquired under this section may be occupied, used, and improved for the purposes of this section prior to the approval of title by the Attorney General as required by section 355 of the Revised Statutes, as amended [section 175 of this title].

(c) Disposition of real property.

Whenever the President determines that any real property acquired under this title [this section] and retained is no longer needed for the defense of the United States, he shall, if the original owner desires the property and pays the fair value thereof, return such property to the owner. In the event the Presi-

dent and the original owner do not agree as to the fair value of the property, the fair value shall be determined by three appraisers, one of whom shall be chosen by the President, one by the original owner, and the third by the first two appraisers; the expenses of such determination shall be paid in equal shares by the Government and the original owner.

(d) Disposition of personal property.

Whenever the need for the national defense of any personal property acquired under this title [this section] shall terminate, the President may dispose of such property on such terms and conditions as he shall deem appropriate, but to the extent feasible and practicable he shall give the former owner of any property so disposed of an opportunity to reacquire it (1) at its then fair value as determined by the President or (2) if it is to be disposed of (otherwise than at a public sale of which he is given reasonable notice) at less than such value, at the highest price any other person is willing to pay therefor: *Provided*, That this opportunity to reacquire need not be given in the case of fungibles or items having a fair value of less than \$1,000. (Sept. 8, 1950, ch. 932, title II, § 201, 64 Stat. 799; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 102 (b), 65 Stat. 132.)

REFERENCES IN TEXT

Act of August 1, 1888 (25 Stat. 357), as amended, referred to in the text of subsection (b), is classified to section 257 of Title 40, Public Buildings, Property and Works, and was also classified to section 258 of said Title 40. Section 258 of said Title 40 was omitted as superseded by Fed. Rules Civ. Proc. rule 71A, set out following section 2072 of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1951—Subsec. (a) amended by act July 31, 1951, § 102 (b) (1), which added last sentence.

Subsec. (b) added by act July 31, 1951, § 102 (b) (2).

Subsec. (c), formerly subsec. (b), redesignated by act July 31, 1951, § 102 (b) (4).

Subsec. (d), formerly subsec. (c), redesignated and amended by act July 31, 1951, § 102 (b) (3), (4), which inserted "acquired" following "personal property" in lieu of "requisitioned".

TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

§ 2091. Loan guarantees—(a) Purpose of loans; guaranteeing agencies.

In order to expedite production and deliveries or services under Government contracts, the President may authorize, subject to such regulations as he may prescribe, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce, and such other agencies of the United States engaged in procurement for the national defense as he may designate (hereinafter referred to as "guaranteeing agencies"), without regard to provisions of law relating to the making, performance, amendment, or modification of contracts, to guarantee in whole or in part any public or private financing institution (including any Federal Reserve bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan,

discount, or advance, or on any commitment in connection therewith, which may be made by such financing institution for the purpose of financing any contractor, subcontractor, or other person in connection with the performance, or in connection with or in contemplation of the termination, of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense.

(b) Fiscal agents; accountability; reimbursement.

Any Federal agency or any Federal Reserve bank, when designated by the President, is authorized to act, on behalf of any guaranteeing agency, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of this section. All such funds as may be necessary to enable any such fiscal agent to carry out any guarantee made by it on behalf of any guaranteeing agency shall be supplied and disbursed by or under authority from such guaranteeing agency. No such fiscal agent shall have any responsibility or accountability except as agent in taking any action pursuant to or under authority of the provisions of this section. Each such fiscal agent shall be reimbursed by each guaranteeing agency for all expenses and losses incurred by such fiscal agent in acting as agent on behalf of such guaranteeing agency, including among such expenses, notwithstanding any other provision of law, attorneys' fees and expenses of litigation.

(c) Supervision; interest, fees, procedures.

All actions and operations of such fiscal agents under authority of or pursuant to this section shall be subject to the supervision of the President, and to such regulations as he may prescribe; and the President is authorized to prescribe, either specifically or by maximum limits or otherwise, rates of interest, guarantee and commitment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through such fiscal agents, and to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

(d) Funds available for guarantees.

Each guaranteeing agency is authorized to use for the purposes of this section any funds which have heretofore been appropriated or allocated or which hereafter may be appropriated or allocated to it, or which are or may become available to it, for such purposes or for the purpose of meeting the necessities of the national defense. (Sept. 8, 1950, ch. 932, title III, § 301, 64 Stat. 800.)

EXECUTIVE ORDER NO. 10223

Ex. Ord. No. 10223, Mar. 12, 1951, 16 F. R. 2247, formerly set out as a note under this section, was revoked by section 404 of Ex. Ord. No. 10281, Aug. 28, 1951, 16 F. R. 8789.

§ 2092. Loans to private business enterprises.

To expedite production and deliveries or services to aid in carrying out Government contracts for the

procurement of materials or the performance of services for the national defense, the President may make provision for loans (including participations in, or guarantees of, loans) to private business enterprises (including research corporations not organized for profit) for the expansion of capacity, the development of technological processes, or the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals. Such loans may be made without regard to the limitations of existing law and on such terms and conditions as the President deems necessary, except that financial assistance may be extended only to the extent that it is not otherwise available on reasonable terms, and manufacture of newsprint. (Sept. 8, 1950, ch. 932, title III, § 302, 64 Stat. 801; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 104, 66 Stat. 298.)

AMENDMENTS

1952—Act June 30, 1952 amended section to bring the manufacture of newsprint within its provisions.

§ 2093. Purchase of raw materials and installation of equipment—(a) Purchases for use or resale; development of strategic minerals and metals; agricultural commodities; termination date.

To assist in carrying out the objectives of this Act [sections 2061—2166 of this Appendix], the President may make provision (1) for purchases of or commitments to purchase metals, minerals, and other materials, for Government use or resale; and (2) for the encouragement of exploration, development, and mining of critical and strategic minerals and metals: *Provided, however*, That purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial uses or stockpiling, and no commodity purchased under this subsection shall be sold at less than the established ceiling price for such commodity (except that minerals and metals shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower), or, if no ceiling price has been established, the higher of the following: (i) the current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of Public Law 439, Eighty-first Congress [section 1427 of Title 7]: *Provided further, however*, That no purchase or commitment to purchase any imported agricultural commodity shall be made calling for delivery more than one year after the expiration of this Act [sections 2061—2166 of this Appendix].

(b) Terms and conditions of purchase.

Subject to the limitations in subsection (a) of this section, purchases and commitments to purchase and sales under such subsection may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods,

but not extending beyond June 30, 1962, as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices (or if there be no established ceiling prices, currently prevailing market prices) or anticipated loss on resale shall not be made unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government or that such purchases are necessary to assure the availability to the United States of overseas supplies.

(c) Subsidy payments on domestically produced materials; exclusion of agricultural products.

If the President finds—

(1) that under generally fair and equitable ceiling prices for any raw or nonprocessed material, there will result a decrease in supplies from high-cost sources of such material, and that the continuation of such supplies is necessary to carry out the objectives of the Act [sections 2061—2166 of this Appendix]; or

(2) that an increase in cost of transportation is temporary in character and threatens to impair maximum production or supply in any area at stable prices of any materials;

he may make provision for subsidy payments on any such domestically produced material other than an agricultural commodity in such amounts and in such manner (including purchases of such material and its resale at a loss without regard to the limitations of existing law), and on such terms and conditions, as he determines to be necessary to insure that supplies from such high-cost sources are continued, or that maximum production or supply in such area at stable prices of such materials is maintained, as the case may be.

(d) Transportation, storage, and processing.

The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined, any materials procured under this section.

(e) Installation of equipment in industrial facilities.

When in his judgment it will aid the national defense, the President is authorized to install additional equipment, facilities, processes or improvements to plants, factories, and other industrial facilities owned by the United States Government, and to install government-owned equipment in plants, factories, and other industrial facilities owned by private persons. (Sept. 8, 1950, ch. 932, title III, § 303, 64 Stat. 801; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 103 (a), 65 Stat. 133.)

REFERENCES IN TEXT

Expiration of this act, referred to in the text of subsection (a), is defined in section 2166 of this Appendix.

AMENDMENTS

1951—Act July 31, 1951 amended section generally to broaden the authority under this section to include materials generally, to continue the prohibition against resale of domestic agricultural commodities except for industrial uses or stockpiling but eliminated it as to imported agricultural commodities, to provide that minerals and metals purchased under subsection (a) may be sold

at less than the established ceiling price, but not less than the current domestic market price, to limit the provision barring contracts calling for delivery more than one year after the expiration of this section to imported agricultural commodities, to provide that purchases and commitments to purchase under subsection (a) may not be made for any period extending beyond June 30, 1952, and to provide for a differential subsidy.

EX. ORD. NO. 10219. RESPONSIBILITIES OF FEDERAL AGENCIES WITH RESPECT TO TRANSPORTATION AND STORAGE

Ex. Ord. No. 10219, Feb. 28, 1951, 16 F. R. 983, provided:

By virtue of the authority vested in me by the Constitution and statutes, including the Defense Production Act of 1950 [sections 2061—2166 of this Appendix], and as President of the United States and Commander-in-Chief of the armed forces, and in order to assure the adequacy and effective utilization of transportation and storage facilities to meet the needs of national defense and of domestic and foreign commerce, it is hereby ordered as follows:

PART I—DOMESTIC TRANSPORTATION AND STORAGE

SECTION 101. The commissioner of the Interstate Commerce Commission who is responsible for the supervision of the Bureau of Service of the Commission shall in utilizing the functions vested in him under the Defense Production Act of 1950 [sections 2061—2166 of this Appendix]:

(a) Assemble and analyze data with respect to requirements to be imposed on domestic transportation and storage systems and facilities and with respect to the ability of such systems and facilities to satisfy such requirements.

(b) Formulate such plans and programs, and take such actions, as may be desirable to meet requirements for domestic transportation and storage, including, among other things, programs and measures for increasing the efficiency and obtaining maximum utilization of domestic transportation and storage systems and facilities and for providing additional transportation and storage facilities.

(c) Coordinate and direct the domestic movement of passenger and freight traffic in cooperation with the Interstate Commerce Commission and private transportation organizations and agencies.

(d) Allocate the use of domestic transportation and storage facilities by operators thereof, and allocate domestic transportation and storage services to the users thereof.

(e) Administer such priorities as may be necessary to insure the movement of essential traffic, subject to such policies and orders as the Defense Production Administrator may prescribe.

(f) Act as claimant for materials and manpower for the construction, operation, maintenance, and repair of domestic transportation and storage systems and facilities.

(g) Cooperate with the Secretary of Commerce, the Secretary of Defense, and the Secretary of the Interior, to achieve the effective coordination of inland and ocean transportation and the efficient operation of all port facilities to meet military and civilian requirements.

(h) Cooperate with the Secretary of Defense and the Administrator of General Services to achieve the effective coordination and utilization of storage facilities.

(i) Utilize the services of the Interstate Commerce Commission and of such other Federal, State, and local agencies as he deems desirable in the performance of his functions.

PART II—SHIPPING AND SHIP CONSTRUCTION

SEC. 201. The Secretary of Commerce shall in utilizing the functions vested in him by law, including those under the Defense Production Act of 1950 [sections 2061—2166 of this Appendix]:

(a) Assemble and analyze data on the requirements for ocean-going merchant shipping, including the requirements of the Department of Defense for ocean-going merchant-type vessels, and the supply of merchant shipping of domestic and foreign registry available for meeting these requirements.

(b) Formulate plans and programs for the construction of ocean-going merchant vessels determined to be needed

to meet the requirements of national defense and domestic and foreign commerce, and construct such vessels as he may be authorized to construct.

(c) Formulate and, as necessary, undertake the execution of plans and programs for the reactivation of vessels from the national-defense reserve fleet, the requisition, purchase, charter, operation, maintenance, and repair of ocean-going merchant vessels, and the administration of war-risk insurance.

(d) Allocate ocean-going merchant vessels as required to meet the needs of the Department of Defense and other Federal programs.

(e) As necessary, schedule the movement of cargo, and administer priorities for the transportation of cargo, on ocean-going merchant vessels (other than those under the control of the Department of Defense), subject to such policies and orders as the Defense Production Administrator may prescribe.

(f) Act as claimant for materials and manpower for the construction, operation, maintenance, and repair of merchant vessels.

(g) Cooperate with the commissioner of the Interstate Commerce Commission responsible for the supervision of the Bureau of Service of the Commission and with the Secretary of Defense and the Secretary of the Interior to achieve the effective coordination of ocean and inland transportation and the efficient operation of all port facilities to meet military and civilian requirements.

(h) Represent the United States in dealing with shipping agencies of allied and associated governments in matters related to the use of shipping, acting within the framework of the national policy and under the guidance of the Department of State on matters of foreign policy and relations.

(i) Establish such agency or agencies within the Department of Commerce, and utilize the services of such other Federal, State, and local agencies, as he deems desirable in the performance of his functions with respect to shipping and ship construction.

SEC. 202. Nothing in this part shall be deemed to limit the functions of the Department of Defense. Any questions arising as to the application of this part which cannot be resolved by the agencies directly concerned shall be referred to the Office of Defense Mobilization for decision.

PART III—AIR TRANSPORTATION

SEC. 301. The Secretary of Commerce shall in utilizing the functions vested in him by law, including those under the Defense Production Act of 1950 [sections 2061—2166 of this Appendix]:

(a) Assemble and analyze data on the requirements of civil air transportation and of the Department of Defense for aircraft of the types used by civil air carriers.

(b) Formulate such plans and programs, and initiate such actions, as may be desirable to meet the requirements for civil air transportation and for the types of aircraft used by civil air carriers, including plans and programs for (1) the transfer or assignment of aircraft from civil air carriers to the Department of Defense, when required to meet needs of the armed forces approved by the Director of Defense Mobilization, and (2) such redistribution as may be necessary of the remaining aircraft among civil air carriers to assure the maintenance of essential civil routes and services.

(c) Allocate aircraft of the types used by civil air carriers as required to meet the needs of the armed forces and to maintain essential civil routes and services.

(d) As necessary, schedule the movement of traffic and administer priorities for the transportation of passengers, cargo, and mail by civil air carriers, subject to such policies and orders as the Defense Production Administrator may prescribe.

(e) Act as claimant for materials and manpower for the construction, operation, maintenance, and repair of civil air transportation systems and facilities.

(f) Establish such agency or agencies within the Department of Commerce, and utilize the services of the Civil Aeronautics Board and of such other Federal, State, and local agencies, as he deems desirable in the performance of his functions.

PART IV—OTHER TRANSPORTATION
FACILITIES

SEC. 401. The Secretary of Commerce with respect to streets, highways, airports, and airways, the Secretary of the Army with respect to rivers, harbors, and inland waterways, the Secretary of the Treasury with respect to aids to navigation, and the Secretary of the Interior with respect to pipelines shall in utilizing the functions vested in them by law, including those under the Defense Production Act of 1950 [sections 2061—2166 of this Appendix]:

(a) Assemble and analyze data on the requirements of the national defense for such transportation facilities.

(b) Formulate plans and programs, and take such actions, as may be desirable for meeting such requirements and obtaining the most effective utilization of such facilities for national defense purposes.

PART V—GENERAL PROVISIONS

SEC. 501. As used in this order the term "domestic transportation" does not include transportation by air, pipeline, or coastal or intercoastal shipping.

SEC. 502. Each agency of the executive branch of the Government shall, consistent with law, furnish to the officers to whom responsibilities are assigned by this order such information relating to its transportation and storage requirements as such officers may request in the performance of their functions under this order.

SEC. 503. Nothing in this Executive order shall be deemed to supersede any provision of Executive Order No. 10193 of December 16, 1950 [set out as a note under section 2154 of this Appendix], or of Executive Order No. 10200 of January 3, 1951 [set out as a note under section 2153 of this Appendix], or to alter the delegations of authority made by or under authority of Executive Order No. 10161 of September 9, 1950 [set out as a note under section 2071 of this Appendix], or of Executive Order No. 10200 of January 3, 1951 [set out as a note under section 2153 of this Appendix]. The enumerations of responsibilities in Parts I, II, III, and IV of this order shall not be deemed to be exclusive or to limit or restrict the functions of the officers designated therein except as specifically provided therein.

§ 2094. Utilization and creation of agencies; borrowing from Treasury; revolving fund; contingent liability of United States.

(a) For the purposes of sections 302 and 303 [sections 2092 and 2093 of this Appendix], the President is authorized to utilize such existing departments, agencies, officials, or corporations of the Government as he may deem appropriate, or to create new agencies (other than corporations).

(b) Any agency created under this section, and any department, agency, official, or corporation utilized pursuant to this section is authorized, subject to the approval of the President, to borrow from the Treasury of the United States, such sums of money as may be necessary to carry out its functions under sections 302 and 303 [sections 2092 and 2093 of this Appendix]: *Provided*, That the amount borrowed under the provisions of this section by all such borrowers shall not exceed an aggregate of \$2,100,000,000 outstanding at any one time: *Provided further*, That when any contract, agreement, loan, or other transaction heretofore or hereafter entered into pursuant to section 302 or 303 [sections 2092 or 2093 of this Appendix] imposes contingent liability upon the United States, such liability shall be considered for the purposes of sections 3679 and 3732 of the Revised Statutes, as amended [section 665 of Title 31 and section 11 of Title 41], as an obligation only to the extent of the probable ultimate net cost to the United States under such

transaction; and the President shall submit a report to the Congress not less often than once each quarter setting forth the gross amount of each such transaction entered into by any agency of the United States Government under this authority and the basis for determining the probable ultimate net cost to the United States thereunder. For the purpose of borrowing as authorized by this subsection, the borrower may issue to the Secretary of the Treasury its notes, debentures, bonds, or other obligations to be redeemable at its option before maturity in such manner as may be stipulated in such obligations. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the obligations. The Secretary of the Treasury is authorized and directed to purchase such obligations and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of obligations hereunder.

(c) Repealed. July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 103 (c), 65 Stat. 134.

(Sept. 8, 1950, ch. 932, title III, § 304, 64 Stat. 802; June 2, 1951, ch. 121, ch. XI, 65 Stat. 61; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 103 (b, c), 65 Stat. 134.)

REFERENCES IN TEXT

The second Liberty Bond Act, as amended, referred to in the text of subsec. (b), is classified to sections 745, 747, 752, 752a, 753, 754, 754a, 754b, 757, 757b, 757c, 758, 760, 764—766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

AMENDMENTS

1951—Subsec. (b) amended by act July 31, 1951, § 103 (b) to increase the revolving fund from \$600,000,000 to \$2,100,000,000, and to limit the contingent liability of the United States.

Subsec. (b) amended by act June 2, 1951, which increased the aggregate of borrowing from \$600,000,000 to \$1,600,000,000.

Subsec. (c) repealed by act July 31, 1951, § 103 (c).

TITLE IV—PRICE AND WAGE STABILIZATION

§ 2101. Purposes of price and wage stabilization; cooperation by government agencies.

It is the intent of Congress to provide authority necessary to achieve the following purposes in order to promote the national defense: To prevent inflation and preserve the value of the national currency; to assure that defense appropriations are not dissipated by excessive costs and prices; to stabilize the cost of living for workers and other consumers and the costs of production for farmers and businessmen; to eliminate and prevent profiteering, hoarding, manipulation, speculation, and other disruptive practices resulting from abnormal market conditions or scarcities; to protect consumers, wage earners, investors, and persons with relatively fixed or limited incomes from undue impairment of their living standards; to prevent economic disturbances,

labor disputes, interferences with the effective mobilization of national resources, and impairment of national unity and morale; to assist in maintaining a reasonable balance between purchasing power and the supply of consumer goods and services; to protect the national economy against future loss of needed purchasing power by the present dissipation of individual savings; and to prevent a future collapse of values. It is the intent of Congress that the authority conferred by this title [sections 2101—2112 of this Appendix] shall be exercised in accordance with the policies set forth in section 2 of this Act [section 2062 of this Appendix], and in particular with full consideration and emphasis, so far as practicable, on the maintenance and furtherance of the American system of competitive enterprise, including independent small-business enterprises, the maintenance and furtherance of a sound agricultural industry, the maintenance and furtherance of sound working relations, including collective bargaining, and the maintenance and furtherance of the American way of life. Whenever the authority granted by this title [sections 2101—2112 of this Appendix] is exercised, all agencies of the Government dealing with the subject matter of this title [said sections], within the limits of their authority and jurisdiction, shall cooperate in carrying out these purposes. (Sept. 8, 1950, ch. 932, title IV, § 401, 64 Stat. 803.)

EX. ORD. NO. 10160. PRESERVATION OF RECORDS FOR CERTAIN PURPOSES

Ex. Ord. No. 10160, Sept. 9, 1950, 15 F. R. 6103, provided: By virtue of the authority vested in me by the Defense Production Act of 1950 [sections 2061—2166 of this Appendix] and as President of the United States, and in order to provide an appropriate basis for action under Title IV of the Defense Production Act of 1950 [sections 2101—2112 of this Appendix], it is hereby ordered:

1. Every person who sold or delivered goods or services, or offered them for sale or delivery, in the course of trade or business during the period from May 24, 1950, to June 24, 1950, inclusive, shall preserve all his records for such period relating to:

(a) The prices received or asked for such goods or services; and

(b) The labor, material, acquisition, and other costs incurred in connection with such goods or services.

2. This order does not apply to:

(a) Records of an individual relating to wages or salary received by such individual;

(b) Records relating to sales of agricultural commodities by the individual producer thereof; and

(c) Records relating to the following, which are exempt from control under section 402 (e) of the Defense Production Act of 1950 [section 2102 (e) of this Appendix]: (i) prices or rentals for real property; (ii) rates or fees charged for professional services; (iii) prices or rentals for (a) materials furnished for publication by any press association or feature service, or (b) books, magazines, motion pictures, periodicals, or newspapers, other than as waste or scrap; or rates charged by any person in the business of operating or publishing a newspaper periodical, or magazine, or operating a radio-broadcasting or television station, a motion-picture or other theater enterprise, or outdoor advertising facilities; (iv) rates charged by any person in the business of selling or underwriting insurance; (v) rates charged by any common carrier or other public utility; and (vi) margin requirements on any commodity exchange.

3. For the purposes of this order:

(a) The term "person" includes an individual, corporation, partnership, association, or any other organized

group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing.

(b) The term "prices" includes rentals, commissions, margins, rates, fees, charges, and allowances paid or received.

(c) The term "goods" has the same meaning as the term "materials" in the Defense Production Act of 1950 [sections 2061—2166 of this Appendix] and includes raw materials, articles, commodities, products, supplies, components, technical information, and processes.

§ 2102. Price and wage controls—(a) Voluntary action.

In order to carry out the objectives of this title [sections 2101—2112 of this Appendix], the President may encourage and promote voluntary action by business, agriculture, labor and consumers. In proceeding under this subsection the President may exercise the authority to approve voluntary programs and agreement conferred on him under section 708 [section 2158 of this Appendix], and may utilize the services of persons and agencies as provided in section 710 [section 2160 of this Appendix].

(b) Price ceilings and stabilization of wages; when imposed.

(1) To the extent that the objectives of this title [sections 2101—2112 of this Appendix] cannot be attained by action under subsection (a) of this section, the President may issue regulations and orders establishing a ceiling or ceilings on the price, rental, commission, margin, rate, fee, charge, or allowance paid or received on the sale or delivery, or the purchase or receipt, by or to any person, of any material or service, and at the same time shall issue regulations and orders stabilizing wages, salaries, and other compensation in accordance with the provisions of this subsection.

(2) Action under this subsection may be taken either with respect to individual materials and services and to individual types of employment, or with respect to materials, services, and types of employment generally. A ceiling may be established with respect to an individual material or service only when the President finds that (i) the price of the material or service has risen or threatens to rise unreasonably above the price prevailing during the period from May 24, 1950 to June 24, 1950, (ii) such price increase will materially affect the cost of living or the national defense, (iii) the imposition of such ceiling is necessary to effectuate the purposes of this Act [sections 2061—2166 of this Appendix], (iv) it is practicable and feasible to impose such ceiling, and (v) such ceiling will be generally fair and equitable to sellers and buyers of such material or service and to sellers and buyers of related or competitive materials and services.

(3) Whenever a ceiling has been imposed with respect to a particular material or service, the President shall stabilize wages, salaries, and other compensation in the industry or business producing the material or performing the service.

(4) Whenever ceilings on prices have been established on materials and services comprising a substantial part of all sales at retail and materially affecting the cost of living, the President (i) shall

impose ceilings on prices and services generally, and (ii) shall stabilize wages, salaries, and other compensation generally.

(5) In stabilizing wages under paragraph (3) of this subsection, the President shall issue regulations prohibiting increases in wages, salaries, and other compensation which he deems would require an increase in the price ceiling or impose hardships or inequities on sellers operating under the price ceiling.

(c) Factors considered in controlling prices and wages; statement in regulation or order; hardships or inequities.

So far as practicable, in exercising the authority conferred in this section, the President shall ascertain and give due consideration to comparable prices, rentals, commissions, margins, rates, fees, charges, and allowances, and to comparable salaries, wages, or other compensation, which he finds to be representative of those prevailing during the period from May 24, 1950, to June 24, 1950, inclusive, or, in case none prevailed during this period or if those prevailing during this period were not generally representative because of abnormal or seasonal market conditions or other cause, then those prevailing on the nearest date on which, in the judgment of the President, they are generally representative. The President shall also give due consideration to the national effort to achieve maximum production in furtherance of the objectives of this Act [sections 2061—2166 of this Appendix]. In determining and adjusting ceilings on prices with respect to materials and services, he shall give due consideration to such relevant factors as he may determine to be of general applicability in respect of such material or service, including the following: Speculative fluctuations, general increases or decreases in cost of production, distribution, and transportation, and general increases or decreases in profits earned by sellers of the material or by persons performing the service, subsequent to June 24, 1950. In stabilizing and adjusting wages, salaries, or other compensation, the President shall give due consideration to such relevant factors as he may determine to be of general applicability in respect of such wages, salaries, or other compensation. Any regulation or order under this title [sections 2101—2112 of this Appendix] shall be such as in the judgment of the President will be generally fair and equitable and will effectuate the purposes of this title [said sections] and shall be accompanied by a statement of considerations involved in the issuance of such regulation or order. The President, in establishing and adjusting ceilings with respect to materials and services, and in stabilizing and adjusting wages, salaries, and other compensation, shall make such adjustments as he deems necessary to prevent or correct hardships or inequities.

(d) Contracts for future delivery; limitations as to wages; agricultural commodities.

(1) Regulations and orders issued under this title [sections 2101—2112 of this Appendix] shall apply regardless of any obligation heretofore or hereafter incurred, except as provided in this subsection; but

the President shall make appropriate provision to prevent hardships and inequities to sellers who have bona fide contracts in effect on the date of issuance of any such regulation or order for future delivery of materials in which seasonal demands or normal business practices require contracts for future delivery.

(2) No wage, salary, or other compensation shall be stabilized at less than that paid during the period from May 24, 1950, to June 24, 1950, inclusive. No regulation or order shall be issued or remain in effect under this title [sections 2101—2112 of this Appendix] which prohibits the payment or receipt of hourly wages at a rate of \$1 per hour or less. No action shall be taken under authority of this title [said sections] with respect to wages, salaries, or other compensation which is inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended, or the Labor Management Relations Act, 1947, or any other law of the United States, or of any State, the District of Columbia, or any Territory or possession of the United States.

(3) No ceiling shall be established or maintained for any agricultural commodity below the highest of the following prices: (i) The parity price for such commodity, as determined by the Secretary of Agriculture in accordance with the Agricultural Adjustment Act of 1938, as amended, and adjusted by the Secretary of Agriculture for grade, location, and seasonal differentials, or (ii) the highest price received by producers during the period from May 24, 1950, to June 24, 1950, inclusive, as determined by the Secretary of Agriculture and adjusted by the Secretary of Agriculture for grade, location, and seasonal differentials, or (iii) in the case of any commodity for which the market was not active during the period May 24 to June 24, 1950, the average price received by producers during the most recent representative period prior to May 24, 1950, in which the market for such commodity was active as determined and adjusted by the Secretary of Agriculture to a level in line with the level of prices received by producers for agricultural commodities generally during the period May 24 to June 24, 1950, and adjusted by the Secretary for grade, location, and seasonal differentials, or (iv) in the case of fire-cured tobacco a price (as determined by the Secretary of Agriculture and adjusted for grade differentials) equal to 75 per centum of the parity price of Burley tobacco of the corresponding crop, and in the case of dark air-cured tobacco and Virginia sun-cured tobacco, respectively, a price (as determined by the Secretary of Agriculture and adjusted for grade differentials) equal to 66⅔ per centum of the parity price of Burley tobacco of the corresponding crop. No ceilings shall be established or maintained hereunder for any commodity processed or manufactured in whole or substantial part from any agricultural commodity below a price which will reflect to producers of such agricultural commodity a price for such agricultural commodity equal to the highest price therefor specified in this subsection: *Provided*, That in establishing and maintaining ceilings on products resulting from the processing of agricultural

commodities, including livestock, a generally fair and equitable margin shall be allowed for such processing and equitable treatment shall be accorded to all such processors. Whenever a ceiling has been established under this title [sections 2101—2112 of this Appendix] with respect to any agricultural commodity, or any commodity processed or manufactured in whole or in substantial part therefrom, the President from time to time shall adjust such ceiling in order to make appropriate allowances for substantial reduction in merchantable crop yields, unusual increases in costs of production, and other factors which result from hazards occurring in connection with the production and marketing of such agricultural commodity; and in establishing the ceiling (1) for any agricultural commodity for which the 1950 marketing season commenced prior to the enactment of this Act [September 8, 1950] and for which different areas have different periods of marketing during such season or (2) for any agricultural commodity produced for the same general use as a commodity described in (1), the President shall give due consideration to affording equitable treatment to all producers of the commodity for which the ceiling is being established. No ceiling shall be established or maintained for any agricultural commodity below 90 per centum of the price received (by grade) by producers on May 19, 1951, as determined by the Secretary of Agriculture. Nothing contained in this Act [sections 2061—2166 of this Appendix] shall be construed to modify, repeal, supersede, or affect the provisions of either (1) the Agricultural Act of 1949, except that under any price support program announced while this title [sections 2101—2112 of this Appendix] is in effect the level of support to cooperators shall be 90 per centum of the parity price, or such higher level as may be established under section 402 of that Act [this section], for any crop of any basic agricultural commodity with respect to which producers have not disapproved marketing quotas, or (2) the Agricultural Marketing Agreement Act of 1937, as amended, or to invalidate any marketing agreement, license, or order, or any provision thereof or amendment thereto, heretofore or hereafter made or issued under the provisions of the Agricultural Marketing Agreement Act of 1937, as amended. Ceiling prices to producers for milk used for distribution as fluid milk in any marketing area not under a marketing agreement, license, or order issued under the Agricultural Marketing Agreement Act of 1937, as amended, shall not be less than (1) parity prices for such milk, or (2) prices which in such marketing areas will bear the same ratio to the average farm price of milk sold wholesale in the United States as the prices for such fluid milk in such marketing areas bore to such average farm price during the base period, as determined by the Secretary of Agriculture, whichever is higher: *Provided, however*, That whenever the Secretary of Agriculture finds that the prices so fixed are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in any

such marketing area, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest, which prices when so determined shall be used as the ceiling prices to producers for fluid milk in such marketing areas. No ceiling prices to producers for milk or butterfat used for manufacturing dairy products shall be issued until and unless the Secretary of Agriculture shall determine that such prices are reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect the supply and demand for dairy products, and will insure a sufficient quantity of dairy products and be in the public interest. The prices so determined shall be adjusted by him for use, grade, quality, location, and season of the year. No ceiling prices for products resulting from the processing of agricultural commodities, including livestock, milk, and other dairy products, shall be established or maintained in any agricultural marketing area at levels which deny to any processor of such products the cost adjustments provided in paragraph (4) of this subsection and which deny to any distributor or seller of such products the customary margin or charge provided in subsection (k) of this section. Where a State regulatory body is authorized to establish minimum and/or maximum prices for sales of fluid milk, ceiling prices established for such sales under this title [sections 2061—2166 of this Appendix] shall (1) not be less than the minimum prices, or (2) be equal to the maximum prices, established by such regulatory body, as the case may be: *And provided further*, That in the case of prices of milk established by any State regulatory body, with respect to which price, parties may be deemed to contract, no ceiling price may be maintained under this title [said sections] which is less than the price so established. No ceiling shall be established or maintained under this title [said sections] for fruits or vegetables in fresh or processed form.

(4) After the enactment of this paragraph [July 31, 1951] no ceiling price on any material (other than an agricultural commodity) or on any service shall become effective which is below the lower of (A) the price prevailing just before the date of issuance of the regulation or order establishing such ceiling price, or (B) the price prevailing during the period January 25, 1951, to February 24, 1951, inclusive. Nothing in this paragraph shall prohibit the establishment or maintenance of a ceiling price with respect to any material (other than an agricultural commodity) or service which (1) is based upon the highest price between January 1, 1950, and June 24, 1950, inclusive, if such ceiling price reflects adjustments for increases or decreases in costs occurring subsequent to the date on which such highest price was received and prior to July 26, 1951, or (2) is established under a regulation issued prior to the enactment of this paragraph [July 31, 1951]. Upon application and a proper showing of his prices and costs by any person subject to a ceiling price, the President shall adjust such ceiling price in the man-

ner prescribed in clause (1) of the preceding sentence. For the purposes of this paragraph the term "costs" includes material, indirect and direct labor, factory, selling, advertising, office, and all other production, distribution, transportation and administration costs, except such as the President may determine to be unreasonable and excessive. The provisions of this paragraph shall not apply in the case of a seller of a material at retail or wholesale within the meaning of subsection (k) of this section.

(5) For the purpose of determining the applicable ceiling price under the general ceiling price regulation issued January 26, 1951, as amended, any sale of fertilizer to the ultimate user by a person who acquired it for resale shall be considered a retail sale.

(e) Prices and wages not subject to control.

The authority conferred by this title [sections 2101—2112 of this Appendix] shall not be exercised with respect to the following:

- (i) Prices or rentals for real property;
- (ii) Rates or fees charged for professional services; wages, salaries, and other compensation paid to physicians employed in a professional capacity by licensed hospitals, clinics and like medical institutions for the care of the sick or disabled; wages, salaries and other compensation paid to attorneys licensed to practice law employed in a professional capacity by an attorney or firm of attorneys engaged in the practice of his or their profession; wages, salaries, and other compensation paid to professional engineers employed in a professional capacity; wages, salaries, and other compensation paid to professional architects employed in a professional capacity by an architect or firm of architects engaged in the practice of his or their profession; and wages, salaries, and other compensation paid to certified public accountants licensed to practice as such employed in a professional capacity by a certified public accountant or firm of certified public accountants engaged in the practice of his or their profession;
- (iii) Prices or rentals for (a) materials furnished for publication by any press association or feature service, or (b) books, magazines, motion pictures, periodicals, or newspapers, other than as waste or scrap; or rates charged by any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio-broadcasting or television station, a motion-picture or other theater enterprise, or outdoor advertising facilities;
- (iv) Rates charged by any person in the business of selling or underwriting insurance;
- (v) (1) Rates and charges by any common carrier or other public utility, including rates charged by any person subject to the Shipping Act, 1916, and including compensation for the use by others of a common carrier's cars or other transportation equipment, charges for the use of washroom and toilet facilities in terminals and stations, and charges for repairing cars or other transportation equipment owned by others; charges for the use of parking facilities operated by common carriers in connection

with their common carrier operations; and (2) charges paid by common carriers for the performance of a part of their transportation services to the public, including the use of cars or other transportation equipment owned by a person other than a common carrier, protective service against heat or cold to property transported or to be transported, and pickup and delivery and local transfer services: *Provided*, That no common carrier or other public utility shall at any time after the President shall have issued any stabilization regulations and orders under subsection (b) of this section make any increase in its charges for property or services sold by it for resale to the public, for which application is filed after the date of issuance of such stabilization regulations and orders, before the Federal, State, or municipal authority, if any, having jurisdiction to consider such increase, unless it first gives thirty days' notice to the President, or such agency as he may designate, and consents to timely intervention by such agency before the Federal, State, or municipal authority, if any, having jurisdiction to consider such increase: *And provided further*, That the Office of Price Stabilization shall not intervene in any case involving increases in rates or charges proposed by any common carrier or other public utility except as provided in the preceding proviso;

(vi) Margin requirements on any commodity exchange;

(vii) Prices charged and wages paid for services performed by barbers and beauticians;

(viii) Rates, fees, and charges for materials or services supplied directly by the States, Territories, and possessions of the United States, and their political subdivisions and municipalities, the District of Columbia, and any agency of any of the foregoing;

(ix) Wages, salaries, or other compensation of persons employed in small-business enterprises as defined in this paragraph: *Provided, however*, That the President may from time to time exclude from this exemption such enterprises on the basis of industries, types of business, occupations, or areas, if their exemption would be unstabilizing with respect to wages, salaries, or other compensation, prices, or manpower, or would otherwise be contrary to the purposes of this Act [sections 2061—2166 of this Appendix]. A small-business enterprise, for the purpose of this paragraph, is any enterprise in which a total of eight or less persons are employed in all its establishments, branches, units, or affiliates. This paragraph shall become effective thirty days after its enactment [June 30, 1952].

(x) Prices charged and wages paid by bowling alleys.

(xi) Wages paid for agricultural labor.

(f) Exemptions by regulation or order.

The President, in or by any regulation or order, may provide exemptions for any materials or services, or transactions therein, or types of employment, with respect to which he finds that (1) such exemption is necessary to promote the national defense; or (2) it is unnecessary that ceilings be applicable to such materials or services, or transactions therein,

or that compensation for such types of employment be stabilized, in order to effectuate the purposes of this title [sections 2101—2112 of this Appendix].

(g) Changes in established business or cost practices or means or aids to distribution.

The powers granted in this title [sections 2101—2112 of this Appendix] shall not be used or made to operate to compel changes in the business practices, cost practices or methods, or means or aids to distribution, established in any industry, except where such action is affirmatively found by the President to be necessary to prevent circumvention or evasion of any regulation, order, or requirement under this title [said sections].

(h) Brand names; grade labeling; specifications or standards.

Nothing in this title [sections 2101—2112 of this Appendix] shall be construed (1) as authorizing the elimination or any restriction of the use of trade and brand names; (2) as authorizing the President to require the grade labeling of any materials; (3) as authorizing the President to standardize any materials or services, unless the President shall determine, with respect to such standardization, that no practicable alternative exists for securing effective price control with respect to such materials or services; or (4) as authorizing any order of the President establishing price ceilings for different kinds, classes, or types of material or service, which are described in terms of specifications or standards, unless such specifications or standards were, prior to such order, in general use in the trade or industry affected, or have previously been promulgated and their use lawfully required by another Government agency.

(i) Limitation of sales with reference to highest price line prohibited.

No rule, regulation, or order issued under this title [sections 2101—2112 of this Appendix] shall require any seller of materials at retail to limit his sales with reference to any highest price line offered for sale by him at any prior time.

(j) Addition of State taxes to sale price.

Where the sale or delivery of a material or service makes the person selling or delivering it liable for a State or local gross receipts tax or gross income tax, he may receive for the material or service involved, in addition to the ceiling price, (1) an amount equal to the amount of all such State and local taxes for which the transaction makes him liable, or (2) one cent, whichever is greater. For the purposes of the preceding sentence, the amount of tax liability shall be computed on shipping units at the ceiling price, and a fractional part of a cent in the amount of tax liability shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(k) Retail selling margin; definition.

No rule, regulation, order, or amendment thereto shall be issued or remain in effect under this title [sections 2101—2112 of this Appendix], which shall deny sellers of materials at retail or wholesale their customary percentage margins over costs of the materials or their customary charges during the period

May 24, 1950, to June 24, 1950, or on such other nearest representative date determined under section 402 (c) [subsection (c) of this section], as shown by their records during such period, except as to any one specific item of a line of material sold by such sellers which is in short supply as evidenced by specific government action to encourage production of the item in question: *Provided, however,* That if the antitrust laws of any State have been construed to prohibit adherence by sellers of materials at wholesale or retail to uniform suggested retail resale prices, the President shall issue regulations giving full consideration to the customary percentage margins of such sellers during the period hereinbefore set forth. No such exception shall reduce such customary margins of sellers at retail or wholesale beyond the amount found by the President, in writing, to be generally equitable and proportionate in relation to the general reductions in the customary margins of all other classes of persons concerned in the production and distribution of the excepted item of material.

Prior to making any finding that a specific item of material shall be so excepted, or as to the amount of the reductions in customary margins to be imposed upon retail and wholesale sellers of such item, the President shall consult with representatives of the affected retail and wholesale sellers concerning the basis for and the amount of the exception which is proposed with respect to any such item.

For purposes of this section a person is a "seller of a material at retail or wholesale" to the extent that such person purchases and resells an item of material without substantially altering its form; or to the extent that such person sells to ultimate consumers except (1) to government and institutional consumers and (2) to consumers who purchase for consumption in the course of trade or business.

(l) State minimum prices.

No rule, regulation, order, or amendment thereto issued under this title [sections 2101—2112 of this Appendix] shall fix a ceiling on the price paid or received on the sale or delivery of any material in any State below the minimum sales price of such material fixed by the State law (other than any so-called "fair trade law") now in effect, or by regulation issued pursuant to such law.

(m) Meat price ceilings of affiliated hotel supply houses.

No rule, regulation, order, or amendment thereto shall be issued or maintained under this title [sections 2101—2112 of this Appendix], which shall deny to any hotel supply house or combination distributor, affiliated with any slaughterer or slaughtering establishment, or to any wholesaler so affiliated but whose affiliation does not amount to an interest or equity of more than 50 per centum, the same ceiling price or prices for meat accorded to hotel supply houses, combination distributors, or wholesalers which are not so affiliated.

(n) Ceilings on agricultural commodities and margin controls.

Notwithstanding any other provision of this Act [sections 2061—2166 of this Appendix], whenever

price ceilings are declared in effect on any agricultural commodity at the farm level, the Director of Price Stabilization must at the same time put into effect margin controls on processors, wholesalers, and retailers, such margin controls to allow the processors, wholesalers, and retailers the normal mark-ups as provided under this Act [said sections], except that under no circumstances are the sellers to be allowed greater than their normal margins of profit. (Sept. 8, 1950, ch. 932, title IV, § 402, 64 Stat. 803; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 104 (a—h), 65 Stat. 134; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, §§ 105—111, 66 Stat. 298.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, as amended, referred to in the text of subsection (d) (2), is classified to chapter 8 of Title 29, Labor.

The Labor Management Relations Act, 1947, referred to in the text of subsection (d) (2), is classified to chapter 7 of Title 29, Labor.

The Agricultural Adjustment Act of 1938, as amended, referred to in the text of subsection (d) (3), is classified to chapter 35 of Title 7, Agriculture.

The Agricultural Act of 1949, referred to in the text of subsection (d) (3), is classified to sections 612c, 1301, 1302, 1322, 1328, 1343—1345, 1353—1356, 1421—1432, 1441, 1446—1449 and 1461—1468 of Title 7, Agriculture, sections 1134c and 1134j of Title 12, Banks and Banking, and section 713a—4 of Title 15, Commerce and Trade.

The Agricultural Marketing Agreement Act of 1937, referred to in the text of subsection (d) (3), is classified to sections 601, 602, 608a, 608b, 608c, 608d, 608e, 610, 612, 614, 624, and 671—673 of Title 7, Agriculture.

Shipping Act, 1916, referred to in the text of subsection (e) (v) (1), is classified to chapter 23 of Title 46, Shipping.

AMENDMENTS

1952—Subsec. (d) (2) amended by act June 30, 1952, § 105, which inserted the second sentence beginning "No regulation or order".

Subsec. (d) (3) amended by act June 30, 1952, § 106, which inserted "except that under * * * disapproved marketing quotas" following "Agriculture Act of 1949" in the fifth sentence, and added the last sentence beginning "No ceiling prices for".

Subsec. (d) (4) amended by act June 30, 1952, § 107, which added last sentence beginning "No provisions of this".

Subsec. (d) (5) added by act June 30, 1952, § 108.

Subsec. (e) (ii) amended by act June 30, 1952, § 109 (a), to include within the compensations not subject to control the wages, salaries, or other compensation paid to professional engineers, architects, and accountants engaged in professional practice.

Subsec. (e) (v) amended by act June 30, 1952, § 109 (b), to include within the exemption of this subsection rates and charges by common carriers, to provide that notice of any increase must be given to the President or a designated agency thirty days in advance, and to exclude the Office of Price Stabilization from intervention in this type of case.

Subsec. (e) (viii)—(xi) added by act June 30, 1952, § 109 (c).

Subsec. (k) amended by act June 30, 1952, § 110, to make it clear that this subsection is applicable to sellers of whether their customary margins were costs are calculated on a percentage mark-up basis or on a dollar-and-cents basis, and to forbid maintenance of rules and regulations unless they meet the requirements of this section.

Subsecs. (l)—(n) added by act June 30, 1952, § 111.

1951—Subsec. (d) (3) amended generally by act July 31, 1951, § 104 (a)—(d) to provide that equitable treatment shall be accorded to processors, as well as to producers, to provide that this act in no way affects or modifies the

Agricultural Act of 1949 or the Agricultural Marketing Agreement Act of 1937, and to provide for ceiling prices on fluid milk in nonregulated areas.

Subsec. (d) (4) added by act July 31, 1951, § 104 (e).

Subsec. (e) amended by act July 31, 1951, § 104 (f), (g) to exempt from the provisions of this section wages and salaries of physicians employed in hospitals, etc., and attorneys employed by a firm of attorneys, and rates, charges and wages paid by barbers and beauticians.

Subsecs. (j) and (k) added by act July 31, 1951, § 104 (h).

RESTRAINT ON PRICE CEILINGS

Section 1 of act June 30, 1951, ch. 198, 65 Stat. 110, provided that: "Notwithstanding any other provision of this resolution or any other provision of law, the authority conferred under the Defense Production Act of 1950, as amended [sections 2061—2166 of this Appendix], shall not be exercised during the period June 30, 1951, to July 31, 1951, inclusive, to place into effect, or permit to become effective, a price ceiling for any material or service lower than the ceiling in effect for such material or service on the date of the enactment of this resolution [June 30, 1951] or to put into effect a ceiling for any material or service for which a ceiling is not in effect on the date of the enactment of this resolution [June 30, 1951], except that in the case of those agricultural commodities below parity which reach a parity price during the effective period of this resolution, ceilings may be put into effect in conformity with the provisions of section 402 (d) (3) of the Act [subsection (d) (3) of this section]."

§ 2103. Independent agency to administer price and wage controls and rationing—(a) Economic Stabilization Agency.

At such time as the President determines that it is necessary to impose price and wage controls generally over a substantial portion of the national economy, he shall administer such controls, and rationing at the retail level of consumer goods for household and personal use under authority of title I of this Act [sections 2071—2074 of this Appendix] (when and to the extent that he exercises such authority), through a new independent agency created for such purpose: *Provided, however*, That the President shall administer any controls over the wages or salaries of employees subject to the provisions of the Railway Labor Act, as amended, through a separate board or panel having jurisdiction only over such employees. Such agency may utilize the services, information, and facilities of other agencies and departments of the Government, but such agency shall not delegate enforcement of any of the controls to be administered by it under this section to any other agency or department.

(b) Wage Stabilization Board; creation; composition, tenure, and compensation; duties; effective date.

(1) There is created, in the present Economic Stabilization Agency, or any successor agency, a Wage Stabilization Board (hereinafter in this subsection referred to as the "Board"), which shall be composed, in equal numbers, of members representative of the general public, members representative of labor, and members representative of business and industry. The number of offices on the Board shall be established by Executive order.

(2) The members of the Board shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate

a Chairman and Vice Chairman of the Board from among the members representative of the general public.

(3) The term of office of the members of the Board shall terminate on May 1, 1953. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(4) Each member representative of the general public shall receive compensation at the rate of \$15,000 a year, and while a member of the Board shall engage in no other business, vocation, or employment. Each member representative of labor, and each member representative of business and industry, shall receive \$50 for each day he is actually engaged in the performance of his duties as a member of the Board, and in addition he shall be paid his actual and necessary travel and subsistence expenses in accordance with the Travel Expense Act of 1949 while so engaged away from his home or regular place of business. The members representative of labor, and the members representative of business and industry, shall, in respect of their functions on the Board, be exempt from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 99 of Title 5.

(5) The Board shall, under the supervision and direction of the Economic Stabilization Administrator—

(A) formulate, and recommend to such Administrator for promulgation, general policies and general regulations relating to the stabilization of wages, salaries, and other compensation; and

(B) upon the request of (i) any person substantially affected thereby, or (ii) any Federal department or agency whose functions, as provided by law, may be affected thereby or may have an effect thereon, advise as to the interpretation, or the application to particular circumstances, of policies and regulations promulgated by such Administrator which relate to the stabilization of wages, salaries, and other compensation.

For the purposes of this Act [sections 2061—2166 of this Appendix], stabilization of wages, salaries, and other compensation means prescribing maximum limits thereon. Except as provided in clause (B) of this paragraph, the Board shall have no jurisdiction with respect to any labor dispute or with respect to any issue involved therein. Labor disputes, and labor matters in dispute, which do not involve the interpretation or application of such regulations or policies shall be dealt with, if at all, insofar as the Federal Government is concerned, under the conciliation, mediation, emergency, or other provisions of laws heretofore or hereafter enacted by the Congress.

(6) Paragraph (5) of this subsection shall take effect thirty days after the date on which this subsection is enacted [June 30, 1952]. The Wage Stabilization Board created by Executive Order Numbered 10161, and reconstituted by Executive Order

Numbered 10233, as amended by Executive Order Numbered 10301 [set out as a note under section 2071 of this Appendix], is abolished, effective at the close of the twenty-ninth day following the date on which this subsection is enacted [June 30, 1952]. After June 27, 1952, the present Wage Stabilization Board shall issue no regulation or order except with respect to individual cases pending before the Board prior to such date.

(c) Salary Stabilization Board; jurisdiction.

Notwithstanding any other provision of this section, the stabilization of the salaries and other compensation of persons (not represented in their relationships or eligible to be so represented with their employer by duly certified or recognized labor organizations) employed as outside salesmen or in bona fide executive, administrative, or professional capacities, as such terms are defined in the regulations issued in pursuance of section 13 (a) (1) of the Fair Labor Standards Act of 1938, as amended [section 213 (a) (1) of Title 29], or as supervisors, as defined by the Labor Management Relations Act, 1947, as amended, shall be administered by the Salary Stabilization Board and the Office of Salary Stabilization as presently established within the Economic Stabilization Agency, or any successor agency, subject to the supervision and direction of the Economic Stabilization Administrator.

(d) Duties of Economic Stabilization Agency.

It shall be the express duty, obligation, and function of the present Economic Stabilization Agency, or any successor agency, to coordinate the relationship between prices and wages, and to stabilize prices and wages. (Sept. 8, 1950, ch. 932, title IV, § 403, 64 Stat. 807; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 105 (a), 65 Stat. 137; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 112, 66 Stat. 300.)

REFERENCES IN TEXT

The Railway Labor Act, referred to in the text of subsection (a), is classified to chapter 8 of Title 45, Railroads.

The Travel Expense Act of 1949, referred to in the text of subsection (b) (4), is classified to sections 835—842 of Title 5, Executive Departments and Government Officers and Employees.

The Labor Management Relations Act, 1947, as amended, referred to in the text of subsection (c), is classified to chapter 7 of Title 29, Labor.

AMENDMENTS

1952—Act June 30, 1952, amended section generally by designating entire former section to be subsection (a) and by adding subsections (b)—(d).

1951—Subsec. (a) amended by act July 31, 1951 to provide separate treatment for wage and salary problems arising under the Railway Labor Act.

CROSS REFERENCES

Appointment of head and assistant heads of any independent agency created under sections 2101—2112 of this Appendix, see section 2153 of this Appendix.

§ 2104. Consultation with representatives of persons affected by regulations.

In carrying out the provisions of this title [sections 2101—2112 of this Appendix], the President shall, so far as practicable, advise and consult with, and establish and utilize committees of, representa-

tives of persons substantially affected by regulations or orders issued hereunder. (Sept. 8, 1950, ch. 932, title IV, § 404, 64 Stat. 807.)

§ 2105. Violation of title and regulations thereunder.

(a) It shall be unlawful, regardless of any obligation heretofore or hereafter entered into, for any person to sell or deliver, or in the regular course of business or trade to buy or receive, any material or service, or otherwise to do or omit to do any act, in violation of this title [sections 2101—2112 of this Appendix] or of any regulation, order, or requirement issued thereunder, or to offer, solicit, attempt or agree to do any of the foregoing. The President shall also prescribe the extent to which any payment made, either in money or property, by any person in violation of any such regulation, order, or requirement shall be disregarded by the executive departments and other governmental agencies in determining the costs or expenses of any such person for the purposes of any other law or regulation, including bases in determining gain for tax purposes.

(b) No employer shall pay, and no employee shall receive, any wage, salary, or other compensation in contravention of any regulation or order promulgated by the President under this title [sections 2101—2112 of this Appendix]. The President shall also prescribe the extent to which any wage, salary, or compensation payment made in contravention of any such regulation or order shall be disregarded by the executive departments and other governmental agencies in determining the costs or expenses of any employer for the purposes of any other law or regulation. (Sept. 8, 1950, ch. 932, title IV, § 405, 64 Stat. 807; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 104 (d), 65 Stat. 136.)

AMENDMENTS

1951—Subsec. (a) amended by act July 31, 1951 to empower the President to prescribe the extent to which payments made in violation of price regulations, etc., may be disallowed by the Government for tax and other purposes.

CROSS REFERENCES

Civil actions and criminal penalties for violation of this section, see section 2109 of this Appendix.

§ 2106. Sales and performance of services not required.

Nothing in this title [sections 2101—2112 of this Appendix] shall be construed to require any person to sell any material or service, or to perform personal services. (Sept. 8, 1950, ch. 932, title IV, § 406, 64 Stat. 807.)

§ 2107. Objections to price control regulations; protests—(a) Filing; hearing; grant or denial by President.

At any time within six months after the effective date of any regulation or order relating to price controls under this title [sections 2101—2112 of this Appendix] or rent controls under the Housing and Rent Act of 1947, as amended [sections 1884, 1891—1894 and 1895—1902 of this Appendix and section 1744 of Title 12], or, in the case of new grounds arising after the effective date of any such regulation or order, within six months after such new grounds arise, any person subject to any provision of such regulation or order may, in accordance with regula-

tions to be prescribed by the President, file a protest specifically setting forth objections to any such provision and affidavits or other written evidence in support of such objections. Statements in support of any such regulation or order may be received and incorporated in the transcript of the proceedings at such times and in accordance with such regulations as may be prescribed by the President. Within a reasonable time after the filing of any protest under this section, but in no event more than thirty days after such filing, the President shall either grant or deny such protest in whole or in part, notice such protest for hearing, or provide an opportunity to present further evidence in connection therewith. In the event that the President denies any such protest in whole or in part, he shall inform the protestant of the grounds upon which such decision is based, and of any economic data and other facts of which the President has taken official notice.

(b) Taking official notice of facts.

In the administration of this title [sections 2101—2112 of this Appendix] and the Housing and Rent Act of 1947, as amended [sections 1884, 1891—1894, and 1895—1902 of this Appendix and section 1744 of Title 12], the President may take official notice of economic data and other facts, including facts found by him as a result of action taken under section 705 of this Act [section 2155 of this Appendix], or section 206 of the Housing and Rent Act of 1947, as amended [section 1896 of this Appendix], as the case may be.

(c) Procedure; board of review; recommendations to President.

Any proceedings under this section may be limited by the President to the filing of affidavits, or other written evidence, and the filing of briefs: *Provided, however*, That upon the request of the protestant, any protest filed in accordance with subsection (a) of this section shall, before denial in whole or in part, be considered by a board of review consisting of one or more officers or employees of the United States designated by the President in accordance with regulations to be promulgated by him. Such regulations shall provide that the board of review may conduct hearings and hold sessions in the District of Columbia or any other place, as a board, or by subcommittees thereof, and shall provide that, upon the request of the protestants and upon a showing that material facts would be adduced thereby, subpoenas shall issue to procure the evidence of persons, or the production of documents, or both. The President shall cause to be presented to the board such evidence, including economic data, in the form of affidavits or otherwise, as he deems appropriate in support of the provision against which the protest is filed. The protestant shall be accorded an opportunity to present rebuttal evidence in writing and oral argument before the board and the board shall make written recommendations to the President. The protestant shall be informed of the recommendations of the board and, in the event that the President rejects such recommendations in whole or in part, shall be informed of the reasons for such rejection.

(d) Protest to be granted or denied within reasonable time; fixing of time by Emergency Court of Appeals.

Any protest filed under this section shall be granted or denied by the President, or granted in part and the remainder of it denied within a reasonable time after it is filed. Any protestant who is aggrieved by undue delay on the part of the President in disposing of his protest may petition the Emergency Court of Appeals for relief; and such court shall have jurisdiction by appropriate order to require the President to dispose of such protest within such time as may be fixed by the court. If the President does not act finally within the time fixed by the court, the protest shall be deemed to be denied at the expiration of that period. (Sept. 8, 1950, ch. 932, title IV, § 407, 64 Stat. 807; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 113 (a), 66 Stat. 301.)

AMENDMENTS

1952—Subsec. (a) amended by act June 30, 1952, 113 (a) (1) by inserting "or rent controls * * * as amended" following "relating to price controls under this title" and by striking out "relating to price controls" following "any such regulation or order".

Subsec. (b) amended by act June 30, 1952, section 113 (a) (2), by inserting "and the Housing and Rent Act of 1947, as amended" following "this title", and by inserting, "or section 206 * * * as the case may be" following "section 705 of this Act".

§ 2108. Emergency Court of Appeals to determine validity of regulations—(a) Time for bringing action; procedure; conclusiveness of Presidential findings.

Any person who is aggrieved by the denial or partial denial of his protest may, within thirty days after such denial, file a complaint with the Emergency Court of Appeals specifying his objections and praying that the regulation or order protested be enjoined or set aside in whole or in part. A copy of such complaint shall forthwith be served on the President, who shall certify and file with such court a transcript of such portions of the proceedings in connection with the protest as are material under the complaint. Such transcript shall include a statement setting forth, so far as practicable, the economic data and other facts of which the President has taken official notice. Upon such filing, the court shall have exclusive jurisdiction of the proceeding and of all questions determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper; to permanently enjoin or set aside, in whole or in part, the regulation or order or the amendment of or supplement to the regulation or order protested; to make and enter upon the pleadings, evidence, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the President; to dismiss the petition; or to remand the proceeding to the President for further action in accordance with the court's decree: *Provided*, That the regulation or order may be modified or rescinded by the President at any time notwithstanding the pendency of such complaint. No objection to such regulation or order,

and no evidence in support of any objection thereto, shall be considered by the court, unless such objection shall have been set forth by the complainant in the protest or such evidence shall be contained in the transcript. The findings of the President with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If application is made to the court by either party for leave to introduce additional evidence which was either offered to the President and not admitted, or which could not reasonably have been offered to the President or included by the President in such proceedings, and the court determines that such evidence should be admitted, the court shall order the evidence to be presented to the President. The President shall promptly receive the same, and such other evidence as he deems necessary or proper, and thereupon he shall certify and file with the court a transcript thereof and any modification made in the regulation or order as a result thereof; except that on request by the President, any such evidence shall be presented directly to the court.

(b) Emergency Court of Appeals continued; jurisdiction and powers.

The Emergency Court of Appeals is continued for the purpose of the exercise of the jurisdiction granted by this title [sections 2101—2112 of this Appendix], with the powers herein specified, together with the powers heretofore granted by law to such court which are not inconsistent with the provisions of this title [said sections]. The court shall have the powers of a district court with respect to the jurisdiction conferred on it by this title [said sections]. So far as necessary to decision the court shall decide all relevant questions of law, interpret constitutional and statutory provisions, interpret the meaning or applicability of the terms of any official action under this title [said sections] or under this Act, as amended [sections 2061—2166 of this Appendix], of which this title [sections 2101—2112 of this Appendix] is a part and with respect to this title [sections 2101—2112 of this Appendix], or under the Housing and Rent Act of 1947, as amended [sections 1884, 1891—1894 and 1895—1902 of this Appendix and section 1744 of Title 12]. The court shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases of which it has jurisdiction under this title [sections 2101—2112 of this Appendix].

(c) Review by Supreme Court; exclusive jurisdiction.

Within thirty days after entry of a judgment or order, interlocutory or final, by the Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of Title 28. The Supreme Court shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this subsection. The Emer-

gency Court of Appeals, and the Supreme Court upon review of judgments and orders of the Emergency Court of Appeals, shall have exclusive jurisdiction to determine the validity of any such regulation or order issued under this title [sections 2101—2112 of this Appendix], or under the Housing and Rent Act of 1947, as amended [sections 1884, 1891—1894 and 1895—1902 of this Appendix and section 1744 of Title 12]. Except as provided in this section, no court, Federal, State, or Territorial, shall have jurisdiction or power to consider the validity of any such regulation or order, or to stay, restrain, enjoin, or set aside, in whole or in part, any provision of this title [sections 2101—2112 of this Appendix], or the Housing and Rent Act of 1947, as amended [sections 1884, 1891—1894 and 1895—1902 of this Appendix and section 1744 of Title 12], authorizing the issuance of such regulations or orders, or any provision of any such regulation or order, or to restrain or enjoin the enforcement of any such provision.

(d) Stay of civil and criminal proceedings in other courts for determination of validity of regulation by Emergency Court of Appeals.

(1) Within thirty days after arraignment, or such additional time as the court may allow for good cause shown, in any criminal proceeding, and within five days after judgment in any civil or criminal proceeding, brought pursuant to section 409 or 706 of this Act [section 2109 or 2156 of this Appendix], section 205 or 206 of the Housing and Rent Act of 1947, as amended [section 1895 or 1896 of this Appendix], or section 371 of Title 18, involving alleged violation of any provision of any such regulation or order, the defendant may apply to the court in which the proceeding is pending for leave to file in the Emergency Court of Appeals a complaint against the President setting forth objections to the validity of any provision which the defendant is alleged to have violated or conspired to violate. The court in which the proceeding is pending shall grant such leave with respect to any objection which it finds is made in good faith and with respect to which it finds there is reasonable and substantial excuse for the defendant's failure to present such objection in a protest filed in accordance with section 407 of this title [section 2107 of this Appendix]. Upon the filing of a complaint pursuant to and within thirty days from the granting of such leave, the Emergency Court of Appeals shall have jurisdiction to enjoin or set aside in whole or in part the provision of the regulation or order complained of or to dismiss the complaint. The court may authorize the introduction of evidence, either to the President or directly to the court, in accordance with subsection (a) of this section. The provisions of subsections (b) and (c) of this section shall be applicable with respect to any proceeding instituted in accordance with this subsection.

(2) In any proceeding brought pursuant to section 409 or 706 of this Act [section 2109 or 2156 of this Appendix], section 205 or 206 of the Housing and Rent Act of 1947, as amended [section 1895 or 1896 of this Appendix], or section 371 of Title 18,

involving an alleged violation of any provision of any such regulation or order, the court shall stay the proceeding—

(i) during the period within which a complaint may be filed in the Emergency Court of Appeals pursuant to leave granted under paragraph (1) of this subsection with respect to such provision;

(ii) during the pendency of any protest properly filed by the defendant under section 407 of this title [section 2107 of this Appendix] prior to the institution of the proceeding under section 409 or 706 of this Act [section 2109 or 2156 of this Appendix], section 205 or 206 of the Housing and Rent Act of 1947, as amended [section 1895 or 1896 of this Appendix], or section 371 of Title 18, setting forth objections to the validity of such provision which the court finds to have been made in good faith; and

(iii) during the pendency of any judicial proceeding instituted by the defendant under this section with respect to such protest or instituted by the defendant under paragraph (1) of this subsection with respect to such provision, and until the expiration of the time allowed in this section for the taking of further proceedings with respect thereto.

Notwithstanding the provisions of this paragraph, stays shall be granted thereunder in civil proceedings only after judgment and upon application made within five days after judgment. Notwithstanding the provisions of this paragraph, in the case of a proceeding under section 409 (a) or 706 (a) of the Act [section 2109 (a) or 2156 (a) of this Appendix] or section 206 (b) of the Housing and Rent Act of 1947, as amended [section 1895 (b) of this Appendix], the court granting a stay under this paragraph shall issue a temporary injunction or restraining order enjoining or restraining, during the period of the stay, violations by the defendant of any provision of the regulation or order involved in the proceeding. If any provision of a regulation or order is determined to be invalid by judgment of the Emergency Court of Appeals which has become effective in accordance with section 408 (b) of this title [subsection (b) of this section], any proceeding pending in any court shall be dismissed, and any judgment in such proceeding vacated, to the extent that such proceeding or judgment is based upon violation of such provision. Except as provided in this subsection, the pendency of any protest under section 407 of this title [section 2107 of this Appendix], or judicial proceeding under this section, shall not be grounds for staying any proceeding brought pursuant to section 409 or 706 of this Act [section 2109 or 2156 of this Appendix], section 205 or 206 of the Housing and Rent Act of 1947, as amended [section 1895 or 1896 of this Appendix], or section 371 of Title 18; nor, except as provided in this subsection, shall any retroactive effect be given to any judgment setting aside a provision of a regulation or order issued under this title [sections 2101—2112 of this

Appendix]. (Sept. 8, 1950, ch. 932, title IV, § 408, 64 Stat. 808; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 113 (b), 66 Stat. 302.)

AMENDMENTS

1952—Act June 30, 1952 amended section generally to permit the court to grant such temporary relief or restraining order as it deems just and proper, to eliminate provisions forbidding the court to issue such temporary orders, to eliminate existing provisions relating to scope of review and to provide instead that the findings of the President, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, and to eliminate the provision which stayed for 30 days the effectiveness of any court order enjoining or setting aside a regulation or order.

CROSS REFERENCES

Creation of Emergency Court of Appeals, see section 924 (c) of this Appendix.

§ 2109. Actions for violations—(a) Injunctions.

Whenever in the judgment of the President any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of section 405 of this title [section 2105 of this Appendix], he may make application to any district court of the United States or any United States court of any Territory or other place subject to the jurisdiction of the United States for and order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the President that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

(b) Criminal penalties.

Any person who willfully violates any provision of section 405 of this title [section 2105 of this Appendix] shall be guilty of a misdemeanor and shall, upon conviction thereof, be subject to a fine of not more than \$10,000, or to imprisonment for not more than one year, or both. Whenever the President has reason to believe that any person is liable to punishment under this subsection, he may certify the facts to the Attorney General, who may, in his discretion, cause appropriate proceedings to be brought.

(c) Recovery of overcharges by buyer or United States.

If any person selling any material or service violates a regulation or order prescribing a ceiling or ceilings, the person who buys such material or service for use or consumption other than in the course of trade or business may, within one year from the date of the occurrence of the violation, except as hereinafter provided, bring an action against the seller on account of the overcharge. In any action under this subsection, the seller shall be liable for reasonable attorney's fees and costs as determined by the court, plus whichever of the following sums is greater: (1) such amount not more than three times the amount of the overcharge, or the overcharges, upon which the action is based as the court in its discretion may determine, or (2) an amount not less than \$25 nor more than \$50 as the

court in its discretion may determine: *Provided, however,* That such amount shall be the amount of the overcharge or overcharges if the defendant proves that the violation of the regulation or order in question was neither willful nor the result of failure to take practicable precautions against the occurrence of the violation. For the purposes of this section the word "overcharge" shall mean the amount by which the consideration exceeds the applicable ceiling.

If any person selling any material or service violates a regulation or order prescribing a ceiling or ceilings and the buyer either fails to institute an action under this subsection within thirty days from the date of the occurrence of the violation or is not entitled for any reason to bring the action, the President may institute such action on behalf of the United States within such one-year period, or compromise with the seller the liability which might be assessed against the seller in such an action. If such action is instituted, or such liability is compromised by the President, the buyer shall thereafter be barred from bringing an action for the same violation or violations. Any action under this subsection by either the buyer or the President, as the case may be, may be brought in any court of competent jurisdiction. A judgment in an action for damages, or a compromise, under this subsection shall be a bar to the recovery under this subsection of any damages in any other action against the same seller on account of sales made to the same purchaser prior to the institution of the action in which such judgment was rendered, or prior to such compromise. The President may not institute any action under this subsection on behalf of the United States—

(1) if the violation arose because the person selling the material or service acted upon and in accordance with the written advice and instructions of the President or any official authorized to act for him;

(2) if the violation arose out of the sale of any material or service to any agency of the Government, and such sale was made pursuant to the lowest bid made in response to an invitation for competitive bids.

(d) Disallowance of fines, penalties, and compromise sums for tax and other purposes.

The President shall also prescribe the extent to which any payment made by way of fine pursuant to subsection (b) of this section, or any payment made to the United States or to any buyer in compromise or satisfaction of any liability or of any right of action, suit, or judgment, authorized pursuant to subsection (c) of this section for selling any material or service, in violation of a regulation or order providing a ceiling or ceilings, shall be disregarded by the executive departments and other governmental agencies in determining the costs or expenses of any such person for the purposes of any other law or regulation.

(e) Definition.

The term "court of competent jurisdiction" as used in this section shall mean any Federal court of competent jurisdiction regardless of the amount

in controversy and any State or Territorial court of competent jurisdiction. (Sept. 8, 1950, ch. 932, title IV, § 409, 64 Stat. 811; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 104 (j—l), 65 Stat. 136.)

AMENDMENTS

1951—Subsec. (a) amended by act July 31, 1951, § 104 (j), to empower the President to apply to the appropriate Federal court for an injunction, and to make clear that the court may issue restitution orders even though it may not grant an injunction or restraining order.

Subsec. (c) amended by act July 31, 1951, § 104 (k) to strike out provision limiting recovery to the amount of the overcharge plus \$10,000.

Subsecs. (d) and (e) added by act July 31, 1951, § 104 (l).

§ 2110. Contracts for purchase of processed chickens or turkeys by Government agencies.

Each contract providing for the purchase of processed chickens or turkeys by any department or agency of the United States from any contractor, entered into at any time when ceiling prices are in effect under this Act [sections 2061—2166 of this Appendix] for whichever of such fowl is covered by such contract, shall contain the following provision (with such change as may be necessary to describe the fowl covered by the contract):

“The contractor represents that the contract price is based upon an estimated price paid to the producers for live chickens or live turkeys to be processed hereunder. In the event and to the extent that the actual price paid to the producers of live chickens or live turkeys purchased for the performance of this contract is less than such estimated price, the contract price shall be reduced by the same number of cents or fraction thereof, per pound.” (Sept. 8, 1950, ch. 932, title IV, § 410, 64 Stat. 812.)

§ 2111. Reports on sales or services below ceiling prices.

In the administration of this title [sections 2101—2112 of this Appendix], no person shall be required to furnish any reports or other information with respect to sales of materials or services at prices which are below ceiling, if such person certifies to the President that such sales were made at such prices. (Sept. 8, 1950, ch. 932, title IV, § 411, as added June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 114, 66 Stat. 304.)

§ 2112. Suspension and termination of controls.

It is declared to be the policy of the Congress that the President shall use the price, wage, and other powers conferred by this Act, as amended [sections 2061—2166 of this Appendix], to promote the earliest practicable balance between production and the demand therefor of materials and services, and that the general control of wages and prices shall be terminated as rapidly as possible consistent with the policies and purposes set forth in this Act [said sections]; and that pending such termination, in order to avoid burdensome and unnecessary reporting and record keeping which retard rather than assist in the achievement of the purposes of this Act [said sections], price or wage regulations and orders, or both, shall be suspended in the case of any material or service or type of employment

where such factors as condition of supply, existence of below ceiling prices, historical volatility of prices, wage pressures and wage relationships, or relative importance in relation to business costs or living costs will permit, and to the extent that such action will be consistent with the avoidance of a cumulative and dangerous unstabilizing effect. It is further the policy of the Congress that when the President finds that the termination of the suspension and the restoration of ceilings on the sales or charges for such material or service, or the further stabilization of such wages, salaries, and other compensation, or both, is necessary in order to effectuate the purposes of this Act [said sections], he shall by regulation or order terminate the suspension. (Sept. 8, 1950, ch. 932, title IV, § 411, as added June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 114, 66 Stat. 304.)

TITLE V—SETTLEMENT OF LABOR DISPUTES

§ 2121. Intent of Congress.

It is the intent of Congress, in order to provide for effective price and wage stabilization pursuant to title IV of this Act [sections 2101—2112 of this Appendix] and to maintain uninterrupted production, that there be effective procedures for the settlement of labor disputes affecting national defense. (Sept. 8, 1950, ch. 932, title V, § 501, 64 Stat. 812.)

§ 2122. National policy; voluntary conferences.

The national policy shall be to place primary reliance upon the parties to any labor dispute to make every effort through negotiation and collective bargaining and the full use of mediation and conciliation facilities to effect a settlement in the national interest. To this end, the President is authorized (1) to initiate voluntary conferences between management, labor, and such persons as the President may designate to represent government and the public, and (2) subject to the provisions of section 503 [section 2123 of this Appendix], to take such action as may be agreed upon in any such conference and appropriate to carry out the provisions of this title [sections 2121—2123 of this Appendix]. The President may designate such persons or agencies as he may deem appropriate to carry out the provisions of this title: *Provided, however*, That in any dispute between employees and carriers subject to the Railway Labor Act, as amended, the procedures of such Act shall be followed for the purpose of bringing about a settlement of such dispute. Any agency provided for by such Act, including any panel or panel board established by the President for the adjustment of disputes arising under the Railway Labor Act, as a prerequisite to effecting or recommending a settlement of such dispute, shall make a specific finding and certification that the changes proposed by such settlement or recommended settlement, are consistent with such standards as may then be in effect, established by or pursuant to law, for the purpose of controlling inflationary tendencies: *Provided further*, That in any nondisputed wage or salary adjustments proposed as a result of voluntary agreement through collective bargaining, mediation, or other-

wise, the same finding and certification of consistency with existing stabilization policy shall be made by the separate panel, chairman thereof, or boards as established and authorized by the President. Where such finding and certification are made by such agency, panel, chairman thereof, or boards, they shall after approval by the Economic Stabilization Administrator be conclusive and it shall then be lawful for the employees and carriers, by agreement, to put into effect the changes proposed by the settlement, recommended settlement, or voluntary proposal with respect to which such findings and certification were made. (Sept. 8, 1950, ch. 932, title V, § 502, 64 Stat. 812; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 105 (b), 65 Stat. 137.)

REFERENCES IN TEXT

The Railway Labor Act, referred to in the text, is classified to chapter 8 of Title 45, Railroads.

Such act, referred to in the text, has reference to the Railway Labor Act.

AMENDMENTS

1951—Act July 31, 1951 amended section by adding proviso to last sentence to make it clear that the procedures of the Railway Labor Act are to be followed in settling a dispute.

§ 2123. Due regard for collective bargaining and other laws.

In any such conference, due regard shall be given to terms and conditions of employment established by prevailing collective bargaining practice which will be fair to labor and management alike, and will be consistent with stabilization policies established under this Act [sections 2061—2166 of this Appendix]. No action inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended, other Federal labor standards statutes, the Labor Management Relations Act, 1947, the Railway Labor Act, as amended, or with other applicable laws shall be taken under this title [sections 2121—2123 of this Appendix]. It is the sense of the Congress that, by reason of the work stoppage now existing in the steel industry, the national safety is imperiled, and the Congress therefore requests the President to invoke immediately the national emergency provisions (sections 206 to 210, inclusive) of the Labor-Management Relations Act, 1947 [sections 176—180 of Title 29], for the purpose of terminating such work stoppage. (Sept. 8, 1950, ch. 932, title V, § 503, 64 Stat. 812; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 105 (c), 65 Stat. 137; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 115, 66 Stat. 305.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in the text, is classified to chapter 8 of Title 29, Labor.

The Labor Management Relations Act of 1947, referred to in the text, is classified to chapter 7 of Title 29, Labor.

The Railway Labor Act, referred to in the text, is classified to chapter 8 of Title 45, Railroads.

AMENDMENTS

1952—Act June 30, 1952, amended section to request the President to invoke the Labor-Management Act with regard to the steel strike.

1951—Act July 31, 1951 amended section to include the Railway Labor Act within its provisions.

TITLE VI—CONTROL OF REAL ESTATE CREDIT

AMENDMENTS

1952—Act June 30, 1952, ch. 530, title I, § 116 (a), 66 Stat. 305, amended title catchline by omitting reference to consumer credit control.

SCOPE OF TITLE

Congress amended the subtitle heading of this title by act June 30, 1952, ch. 530, title I, § 116 (a), 66 Stat. 305 to read as follows: "This title authorizes the regulation of real estate construction credit only."

§ 2131. Repealed June 30, 1952, ch. 530, title I, § 116 (a), 66 Stat. 305.

Section, acts Sept. 8, 1950, ch. 932, title VI, § 601, 64 Stat. 812; July 31, 1951, ch. 275, title I, § 106 (a), 65 Stat. 138, related to power to exercise consumer credit controls.

§ 2132. Real estate construction credit—(a) Regulations.

To assist in carrying out the purposes of this Act [sections 2061—2166 of this Appendix], the President is authorized from time to time to prescribe regulations with respect to such kind or kinds of real estate construction credit which thereafter may be extended as, in his judgment, it is necessary to regulate in order to prevent or reduce excessive or untimely use of or fluctuations in such credit. Such regulations may, among other things, prescribe maximum loan or credit values, minimum down payments in cash or property, trade-in or exchange values, maximum maturities, maximum amounts of credit, rules regarding the amount, form, and time of various payments, rules against any credit in specified circumstances, rules regarding consolidations, renewals, revisions, transfers, or assignments of credit, and rules regarding other similar or related matters. Such regulations may classify persons and transactions and may apply different requirements thereto, and may include such administrative provisions as in the judgment of the President are reasonably necessary in order to effectuate the purposes of this section or to prevent evasions thereof.

In prescribing and suspending such regulations, including changes from time to time to take account of changing conditions, the President shall consider, among other factors, (1) the level and trend of real estate construction credit and the various kinds thereof, (2) the effect of the use of such credit upon (i) purchasing power and (ii) demand for real property and improvements thereon and for other goods and services, (3) the need in the national economy for the maintenance of sound credit conditions, and (4) the needs for increased defense production.

(b) Compliance with regulations; records and reports.

No person shall extend or maintain any real estate construction credit, or renew, revise, consolidate, refinance, purchase, sell, discount, or lend or borrow on, any obligation arising out of any such credit, or arrange for any of the foregoing, in contravention of any regulation prescribed by the President pursuant to this section. Any person who extends or maintains any such credit, or renews, revises, con-

solidates, refinances, purchases, sells, discounts, or lends or borrows on, any obligation arising out of any such credit, or arranges for any of the foregoing, shall make, keep, and preserve for such periods, such accounts, correspondence, memoranda, papers, books, and other records, and make such reports, under oath or otherwise, as the President may by regulation require as necessary or appropriate in order to effectuate the purposes of this section; and such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time to such reasonable periodic, special, or other examinations by examiners or other representatives of the President as the President may deem necessary or appropriate. The requirements of this section apply whether a person is acting as principal, agent, broker, vendor, or otherwise.

(c) Registration of transactions or persons.

To assist in carrying out the purposes of this section, the President by regulation may require transactions or persons or classes thereof subject to this section to be registered; and, after notice and opportunity for hearing, the President by order may suspend any such registration for violation of this section or any regulation prescribed by the President pursuant to this section. The provisions of section 25 of the Securities Exchange Act of 1934, as amended [section 78y of Title 15], shall apply in the case of any such order of the President in the same manner that such provisions apply in the case of orders of the Securities and Exchange Commission under that Act. In carrying out this section, the President may act through and may utilize the services of the Board of Governors of the Federal Reserve System, the Federal Reserve banks, and any other agencies, Federal or State, which are available and appropriate.

(d) Definitions.

For the purposes of this section, unless the context otherwise requires, the following terms shall have the following meanings, but the President may in his regulations further define such terms and, in addition, may define technical, trade, accounting, and other terms, insofar as any such definitions are not inconsistent with the provisions of this section:

(1) "Real estate construction credit" means any credit which (i) is wholly or partly secured by, (ii) is for the purpose of purchasing or carrying, (iii) is for the purpose of financing, or (iv) involves a right to acquire or use, new construction on real property or real property on which there is new construction. As used in this paragraph the term "new construction" means any structure, or any major addition or major improvement to a structure, which has not been begun before 12 o'clock meridian, August 3, 1950. As used in this paragraph the term "real property" includes leasehold and other interests therein. Notwithstanding the foregoing provisions of this paragraph, the term "real estate construction credit" shall not include any loan or loans made, insured, or guaranteed by any department, independent establishment or agency

in the executive branch of the United States, or by any wholly owned Government corporation, or by any mixed-ownership Government corporation as defined in the Government Corporation Control Act, as amended.

(2) "Credit" means any loan, mortgage, deed of trust, advance, or discount; any conditional sale contract; any contract to sell or sale or contract of sale, of property or services, either for present or future delivery, under which part or all of the price is payable subsequent to the making of such sale or contract; any rental-purchase contract, or any contract for the bailment, leasing, or other use of property under which the bailee, lessee, or user has the option of becoming the owner thereof, obligates himself to pay as compensation a sum substantially equivalent to or in excess of the value thereof, or has the right to have all or part of the payments required by such contract applied to the purchase price of such property or similar property; any option, demand, lien, pledge, or similar claim against, or for the delivery of property or money; any purchase, discount, or other acquisition of, or any credit under the security of, any obligation or claim arising out of any of the foregoing; and any transaction or series of transactions having a similar purpose or effect. (Sept. 8, 1950, ch. 932, title VI, § 602, 64 Stat. 813.)

REFERENCES IN TEXT

That act, referred to in the text of subsection (c), has reference to the Securities Exchange Act of 1934. For distribution of said act, see note under section 78a of Title 15, Commerce and Trade.

The Government Corporation Control Act, as amended, referred to in the text of subsection (d) (1), is classified to chapter 14 of Title 31, Money and Finance.

§ 2133. Penalties.

Any person who willfully violates any provision of section 601, 602, or 605 [sections 2131, 2132, or 2135 of this Appendix] or any regulation or order issued thereunder, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (Sept. 8, 1950, ch. 932, title VI, § 603, 64 Stat. 814; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 106 (b), 65 Stat. 138.)

AMENDMENTS

1951—Act July 31, 1951 amended section to include within its provisions section 2135 of this Appendix.

§ 2134. Consumer credit controls; investigations; injunctions; jurisdiction.

All the present provisions of sections 21 and 27 of the Securities Exchange Act of 1934, as amended [section 78u and 78aa of Title 15] (relating to investigations, injunctions, jurisdictions, and other matters), shall be as fully applicable with respect to the exercise by the Board of Governors of the Federal Reserve System of credit controls under section 601 [section 2131 of this Appendix] as they are now applicable with respect to the exercise by the Securities and Exchange Commission of its functions under that Act, and the Board shall have the same powers in the exercise of such credit controls as the Commission now has under the said

sections 21 and 27 [sections 78u and 78aa of Title 15]. (Sept. 8, 1950, ch. 932, title VI, § 604, 64 Stat. 814.)

REFERENCES IN TEXT

That Act, referred to in the text, has reference to the Securities Exchange Act of 1934. For distribution of said Act, see note under section 78a of Title 15, Commerce and Trade.

§ 2135. Real estate loans by government agencies.

To assist in carrying out the objectives of this Act [sections 2061—2166 of this Appendix] the President may at any time or times, notwithstanding any other provision of law, reduce, for such period as he shall specify, the maximum authorized principal amounts, ratios of loan to value or cost, or maximum maturities of any type or types of loans on real estate which thereafter may be made, insured, or guaranteed by any department, independent establishment, or agency in the executive branch of the United States Government, or by any wholly owned Government corporation or by any mixed-ownership Government corporation as defined in the Government Corporation Control Act, as amended, or reduce or suspend any such authorized loan program, upon a determination, after taking into consideration the effect thereof upon conditions in the building industry and upon the national economy and the needs for increased defense production, that such action is necessary in the public interest: *Provided*, That in the exercise of these powers, the President shall preserve the relative credit preferences accorded to veterans under existing law: *And provided further*, That no more than 4 per centum down payment shall be required in connection with the loan on any home made or guaranteed by the Veterans' Administration pursuant to the Servicemen's Readjustment Act of 1944, as amended, and the sales price of which home does not exceed \$7,000; and no more than 6 per centum down payment shall be required in connection with any such loan where the sales price exceeds \$7,000 but does not exceed \$10,000; and no more than 8 per centum down payment shall be required in connection with any such loan where the sales price exceeds \$10,000 but does not exceed \$12,000. Subject to the provision of this section with respect to preserving the relative credit preferences accorded to veterans under existing law, the President may require lenders or borrowers and their successors and assigns to comply with reasonable conditions and requirements, in addition to those provided by other laws, in connection with any loan of a type which has been the subject of action by the President under this section. Such conditions and requirements may vary for classifications of persons or transactions as the President may prescribe, and failure to comply therewith shall constitute a violation of this section. (Sept. 8, 1950, ch. 932, title VI, § 605, 64 Stat. 814; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 106 (c), 65 Stat. 138; Sept. 1, 1951, ch. 378, title VI, § 602 (a), 65 Stat. 313.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in the text, is classified to chapter 14 of Title 31, Money and Finance.

The Servicemen's Readjustment Act of 1944, as amended, referred to in the text, is classified to chapter 11C of Title 38, Pensions, Bonuses, and Veterans' Relief.

AMENDMENTS

1951—Act Sept. 1, 1951 amended section by adding second proviso.

Act July 31, 1951 amended section to provide specific authority for the setting up and enforcement of reasonable conditions and requirements in connection with loans.

§ 2136. Down-payment requirements on veterans' homes.

Not more than 10 per centum down payment shall be required pursuant to section 602 or section 605 of this Act [sections 2132 or 2135 of this Appendix] in connection with the loan on any home not made or guaranteed by the Veterans' Administration and the transaction price of which home does not exceed \$7,000; nor more than 15 per centum in connection with any such loan on any home the transaction price of which exceeds \$7,000 but does not exceed \$10,000; nor more than 20 per centum in connection with any such loan on any home the transaction price of which exceeds \$10,000 but does not exceed \$12,000. The term of any loan referred to in the preceding sentence or in the last proviso of section 605 [section 2135 of this Appendix] shall not be required to be less than twenty-five years. (Sept. 8, 1950, ch. 932, title VI, § 606, as added Sept. 1, 1951, ch. 378, title VI, § 602 (b), 65 Stat. 313.)

§ 2137. Residential credit control; limitation; definition; publication; termination of relaxation period.

Notwithstanding the provisions of sections 602 and 605 of this title [sections 2132 and 2135 of this Appendix], the authority of the President which is derived from said sections to impose credit regulations relative to residential property shall not be exercised with respect to extensions of credit made during any "period of residential credit control relaxation", as that term is herein defined, in such manner as to impose any down payment requirement in excess of 5 per centum of the transaction price. The President shall cause to be made estimates of the number of permanent, nonfarm, family dwelling units, the construction of which has been started during each calendar month and, on the basis of such estimates, he shall cause to be made estimates of the annual rate of construction starts during each such month, after making reasonable allowance for seasonal variations in the rate of construction. If for any three consecutive months the annual rate of construction starts so found for each of the three months falls to a level below an annual rate of 1,200,000 starts per year, the President shall cause to be published in the Federal Register an announcement of the beginning of a "period of residential credit control relaxation", which period shall begin not later than the first day of the second calendar month following such three consecutive months. Each such relaxation period may be terminated by the President at any time after the annual rate of construction starts thereafter estimated for each of any three consecutive months exceeds the level referred to

in the preceding sentence. (Sept. 8, 1950, ch. 932, title VI, § 607, as added June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 116 (b), 66 Stat. 305.)

TITLE VII—GENERAL PROVISIONS

§ 2151. Encouragement of small business; allocation of supplies to business.

(a) It is the sense of the Congress that small-business enterprises be encouraged to make the greatest possible contribution toward achieving the objectives of this Act [sections 2061—2166 of this Appendix].

(b) In order to carry out this policy—

(i) the President shall provide small-business enterprises with full information concerning the provisions of this Act [sections 2061—2166 of this Appendix] relating to, or of benefit to, such enterprises and concerning the activities of the various departments and agencies under this Act [said sections];

(ii) such business advisory committees shall be appointed as shall be appropriate for purposes of consultation in the formulation of rules, regulations, or orders, or amendments thereto issued under authority of this Act [said sections], and in their formation there shall be fair representation for independent small, for medium, and for large business enterprises, for different geographical areas, for trade association members and nonmembers, and for different segments of the industry;

(iii) in administering this Act [said sections], such exemptions shall be provided for small-business enterprises as may be feasible without impeding the accomplishment of the objectives of this Act [said sections]; and

(iv) in administering this Act [said sections], special provision shall be made for the expeditious handling of all requests, applications, or appeals from small-business enterprises.

(c) Whenever the President invokes the powers given him in this Act [sections 2061—2166 of this Appendix] to allocate, or approve agreements allocating, any material, to an extent which the President finds will result in a significant dislocation of the normal distribution in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding June 24, 1950 and having due regard to the current competitive position of established business: *Provided*, That the limitations and restrictions imposed on the production of specific items shall not exclude new concerns from a fair and reasonable share of total authorized production. (Sept. 8, 1950, ch. 932, title VII, § 701, 64 Stat. 815; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 108, 65 Stat. 138.)

AMENDMENTS

1951—Subsec. (c) amended by act July 31, 1951, to provide that the limitations and restrictions on the production of specific items shall not exclude new concerns.

§ 2152. Definitions.

As used in this Act [sections 2061—2166 of this Appendix]

(a) The word “person” includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing: *Provided*, That no punishment provided by this Act [sections 2061—2166 of this Appendix] shall apply to the United States, or to any such government, political subdivision, or government agency.

(b) The word “materials” shall include raw materials, articles, commodities, products, supplies, components, technical information, and processes.

(c) The word “facilities” shall not include farms, churches or other places of worship, or private dwelling houses.

(d) The term “national defense” means the operations and activities of the armed forces, the Atomic Energy Commission, or any other Government department or agency directly or indirectly and substantially concerned with the national defense, or operations or activities in connection with the Mutual Defense Assistance Act of 1949, as amended.

(e) The words “wages, salaries, and other compensation” shall include all forms of remuneration to employees by their employers for personal services, including, but limited to, vacation and holiday payments, night shift and other bonuses, incentive payments, year-end bonuses, employer contributions to or payments of insurance or welfare benefits, employer contributions to a pension fund or annuity, payments in kind, and premium overtime payments. (Sept. 8, 1950, ch. 932, title VII, § 702, 64 Stat. 815.)

REFERENCES IN TEXT

The Mutual Defense Assistance Act of 1949, as amended, referred to in the text of subsection (d), is classified to chapter 20 of Title 22, Foreign Relations and Intercourse.

§ 2153. Delegation of authority; creation of new agencies; appointment and compensation of officers and personnel; State representation in regional offices.

(a) Except as otherwise specifically provided, the President may delegate any power or authority conferred upon him by this Act [sections 2061—2166 of this Appendix] to any officer or agency of the Government, including any new agency or agencies (and the President is authorized to create such new agencies, other than corporate agencies, as he deems necessary), and he may authorize such redelegations by that officer or agency as the President may deem appropriate. The President is authorized to appoint heads and assistant heads of any such new agencies, and other officials therein of comparable status, and to fix their compensation, without regard to the Classification Act of 1949, as amended, the head of one such agency to be paid at a rate comparable to the compensation paid to the heads of executive departments of the Government, and

other such heads, assistant heads, and officials at rates comparable to the compensation paid to the heads and assistant heads of independent agencies of the Government. Any officer or agency may employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, without regard to section 14 of the Federal Employees Pay Act of 1946 (60 Stat. 219) [section 947 of Title 5], as the President deems necessary to carry out the provisions of this Act [sections 2061—2166 of this Appendix].

(b) The head and assistant heads of any independent agency created to administer the authority conferred by title IV of this Act [sections 2101—2112 of this Appendix] shall be appointed by the President, by and with the advice and consent of the Senate. There shall be included among the policy-making officers of each regional office administering the authority conferred by title IV of this Act [sections 2101—2112 of this Appendix] a resident of each State served by such office whose governor requests such representation. (Sept. 8, 1950, ch. 932, title VII, § 703, 64 Stat. 816; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 109 (a, b), 65 Stat. 139.)

REFERENCES IN TEXT

The Classification Act of 1949, referred to in the text of subsection (a), is classified to chapter 21 of Title 5, Executive Departments and Government Officers and Employees.

AMENDMENTS

1951—Subsec. (a) amended by act July 31, 1951, § 109 (a) to provide that the executive head of one agency under this act shall be paid at a rate comparable to that paid heads of executive departments.

Subsec. (b) amended by act July 31, 1951, § 109 (b) to provide for State representation in regional offices.

EX. ORD. NO. 10193. PROVISIONS FOR CONDUCT OF MOBILIZATION EFFORT OF THE GOVERNMENT

Ex. Ord. No. 10193, Dec. 16, 1950, 15 F. R. 9031, provided:

1. There is hereby established in the Executive Office of the President the Office of Defense Mobilization. There shall be at the head of such Office a Director of Defense Mobilization, hereinafter called the Director, who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at the rate of \$22,500 per annum.

2. The Director shall on behalf of the President direct, control, and coordinate all mobilization activities of the Executive Branch of the Government, including but not limited to production, procurement, manpower, stabilization, and transport activities.

3. All functions delegated or assigned by or pursuant to the provisions of Executive Orders Nos. 10161 of September 9, 1950 [set out as a note under section 2071 of this Appendix] and 10172 of October 12, 1950 [set out as a note under section 124A of Title 26] shall be performed by the respective officers concerned, subject to the direction and control of the Director.

4. In carrying out the functions conferred upon him by this order, the Director shall from time to time report to the President concerning his operations under this order and issue such directives, consonant with law, on policy and operations to the Federal agencies and departments as may be necessary to carry out the programs developed, the policies established, and the decisions made by the Director. It shall be the duty of all such agencies and departments to execute these directives and to make to the Director such progress and other reports as may be required.

5. The Director may perform the functions conferred upon him by the provisions of this order through such

officers and such agencies and in such manner as he shall, consonant with law and the provisions of this order, determine.

6. Within the limitations of funds which may be made available, the Director may employ necessary personnel and make provision for supplies, facilities, and services necessary to discharge his responsibilities.

7. To the extent that any provisions of any prior Executive order or directive is inconsistent with the provisions of this order, the latter shall control.

EX. ORD. NO. 10200. ESTABLISHMENT OF DEFENSE PRODUCTION ADMINISTRATION

Ex. Ord. No. 10200, Jan. 3, 1951, 16 F. R. 61, as amended
Ex. Ord. No. 10281, Aug. 28, 1951, 16 F. R. 8789, provided:

PART I. DEFENSE PRODUCTION ADMINISTRATION

Section 1. (a) There is hereby created an agency which shall be known as the Defense Production Administration.

(b) There shall be at the head of the Defense Production Administration a Defense Production Administrator, hereinafter referred to as the Administrator, who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator shall perform his duties subject to the direction, control, and coordination of the Director of Mobilization.

Sec. 2. (a) There are hereby delegated to the Administrator the functions conferred upon the President by titles I and II and section 708 of the Defense Production Act of 1950 [sections 2071—2074, 2081, and 2158 of this Appendix] (relating respectively to priorities and allocations, requisitioning, and voluntary agreements) which were by the provisions of Part I, section 201 (a) of Part II, and Part VII of Executive Order No. 10161 of September 9, 1950 [set out as a note under section 2071 of this Appendix], delegated to the Secretary of Commerce, the Secretary of the Interior, and the commissioner of the Interstate Commerce Commission, respectively, and those which were by the provisions of section 101 of the said Executive Order No. 10161 delegated to the Secretary of Agriculture to the extent that they relate to food which has been determined to be available for industrial needs pursuant to section 3 of this order; and the said delegations made by the said Executive Order No. 10161 are hereby terminated accordingly.

(b) Revoked. Ex. Ord. No. 10281, Aug. 28, 1951, 16 F. R. 8789.

(c) In carrying out the functions delegated or otherwise assigned to him by the foregoing provisions of this Executive order, the Administrator shall:

(1) Pending the further order of the President or the Director of Defense Mobilization, and excluding the duties set forth in paragraphs (2) to (5), inclusive, immediately below, provide by redelegation or otherwise for the performance of the said functions by the respective officers and agencies to whom the said functions were delegated by the said Executive Order No. 10161 and their delegates.

(2) Perform the central programming functions incident to the determination of the production programs required to meet defense needs.

(3) Make determinations as to the provision of adequate facilities for defense production and as to the procedures and methods followed by Executive agencies with respect to the accomplishment of defense production programs, including those with respect to purchasing, contracting and specifications.

(4) Assemble estimated labor supply requirements for the fulfillment of projected defense production programs and furnish them to the Secretary of Labor for use in connection with the functions assigned to him by Part VI of the said Executive Order No. 10161.

(5) Perform, without the power of redelegation, those functions of the Administrator under section 2 (a) of this Executive order (relating to certain voluntary agreements), which were heretofore delegated to the Secretary of Commerce by the provisions of section 701 (b) (1) of the said Executive Order No. 10161, and perform such other functions regarding voluntary agreements as he may determine.

(d) The provisions of sections 902 and 903 of Executive Order No. 10161 (including those with respect to subpoena) are hereby made applicable to the Administrator with respect to his functions.

(e) The Administrator is hereby designated as the certifying authority for the purposes of and within the meaning of subsection (e) of section 124A of the Internal Revenue Code, as added by section 216 of the Revenue Act of 1950, approved September 23, 1950 [section 124A of Title 26].

Sec. 3. (a) Whenever the available supply of any food is insufficient to meet all needs therefor the Administrator and the Secretary of Agriculture shall jointly determine the division to be made of the available supply of such food as between food for industrial needs and food for human and animal consumption.

(b) In the event of any difference of view between the Administrator and the Secretary of Agriculture relating to the execution of section 3 (a) above, or in the event of any difference in view arising between the Secretary of Agriculture and any other officer or agency of the Government in the administration of functions under the Defense Production Act of 1950 [sections 2061—2166 of this Appendix] with respect to food or facilities therefor, such difference of view shall be submitted to the Director of Defense Mobilization for decision.

Sec. 4. Section 902 (d) (1) of Executive Order No. 10161 of September 9, 1950 is hereby amended to read as follows:

"(1) Each officer or agency having functions under the said Act delegated or assigned to such officer or agency by or pursuant to this Executive order shall submit to the Chairman of the United States Civil Service Commission such requests for classification of positions in grades 16, 17, and 18 of the General Schedule as may be necessary, and shall accompany any such request with a certificate stating that the duties of the position are essential and appropriate for the administration of the said Act."

Sec. 5. Section 802 of Executive Order No. 10161 of September 9, 1950, is hereby revoked, and the authority of the Chairman of the National Security Resources Board under section 103 (b) of the said Executive Order No. 10161 to approve the designation of officers and agencies as claimants is hereby terminated.

Sec. 6 (a) To the extent that provisions of Executive Order No. 10161 of September 9, 1950 are inconsistent with the provisions of this order the latter shall control, and the said Executive Order No. 10161 is amended accordingly.

Except as modified or made inapplicable by the provisions of this Executive order, provisions of the said Executive Order No. 10161 relating to functions vested in the Administrator hereby shall continue to be applicable to such functions. Executive Order No. 10172 of October 12, 1950 [set out as a note under section 124A of Title 26] is hereby revoked. Nothing in this Executive order shall affect the validity or force of anything heretofore done under the said Executive Orders Nos. 10161 or 10172.

(b) Any officer or agency having by delegation or otherwise any function under this order shall have all the authority conferred by sections 902 and 903 of Executive Order No. 10161, including the authority with respect to subpoena.

(c) All orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this Executive order shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority.

(d) Nothing in this Executive order shall be deemed to supersede any provision of Executive Order No. 10193 of December 16, 1950.

Sec. 7. The provisions of sections 2 to 6, inclusive, of this Executive order shall not be effective until the Administrator first appointed hereunder takes office as Administrator.

PART II. DEFENSE MOBILIZATION BOARD

Sec. 8. There is hereby established in the Office of Defense Mobilization (established by Executive Order No.

10193 of December 16, 1950 [set out as a note under this section]) the Defense Mobilization Board, which shall consist of the Director of Defense Mobilization as Chairman, the Secretaries of Defense, the Treasury, the Interior, Commerce, Agriculture, and Labor, the Chairman of the Reconstruction Finance Corporation, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the National Security Resources Board, and such other officials as said Director may from time to time designate. The said Board shall be advisory to the Director of Defense Mobilization.

EX. ORD. NO. 10224. ESTABLISHMENT OF THE NATIONAL ADVISORY BOARD ON MOBILIZATION POLICY

Ex. Ord. No. 10224, Mar. 19, 1951, 16 F. R. 2543, provided:

By virtue of the authority vested in me by the Constitution and Statutes, including the Defense Production Act of 1950 [sections 2061—2166 of this Appendix], and as President of the United States and Commander in Chief of the Armed Forces, it is hereby ordered as follows:

SECTION 1. There is hereby established the National Advisory Board on Mobilization Policy, hereinafter referred to as the Board, which shall be composed of the Director of Defense Mobilization, as Chairman, and sixteen other members of outstanding experience and ability who shall be appointed by the President. All of the members of the Board shall represent the general public and the public interest, but in order that the Board may have the benefit of experience in pertinent matters, four members of the Board shall have had experience in business management, four members shall have had experience in matters relating to labor, and four members shall have had experience in agriculture.

Sec. 2. It shall be the function of the Board to advise the President from time to time with respect to the current defense mobilization program or any phase thereof. The Board shall meet with the President at his request and shall meet at such other times as may be determined by its Chairman. The Board shall make recommendations and reports to the President upon his request and at such other times as the Board deems appropriate.

Sec. 3. The members of the Board shall serve without compensation, and exemption is hereby granted, with respect to their service under this Executive order, from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 of the United States Code and Section 190 of the Revised Statutes [section 99 of Title 5].

Sec. 4. Members of the Board may be allowed transportation expenses in accordance with the standardized government travel regulations, as amended, and a per diem allowance of \$15.00 in lieu of subsistence, while away from their respective homes or regular places of business on the business of the Board. Funds available for carrying out the Defense Production Act of 1950 [sections 2061—2166 of this Appendix] and allotted for use under this order shall be utilized for the purposes of this Section 4 and for any other necessary expenditures of the Board.

EX. ORD. NO. 10281. DEFENSE MATERIALS PROCUREMENT AND SUPPLY

Ex. Ord. No. 10281, Aug. 28, 1951, 16 F. R. 8789, provided:

PART I. DEFENSE MATERIALS PROCUREMENT AGENCY

SECTION 101. (a) There is hereby created an agency which shall be known as the Defense Materials Procurement Agency. There shall be at the head of the said agency a Defense Materials Procurement Administrator, who shall perform his duties subject to direction, control, and coordination by the Director of Defense Mobilization.

(b) The Defense Materials Procurement Administrator shall be appointed by the President by and with the advice and consent of the Senate. There may be appointed to the office of Defense Materials Procurement Administrator any officer of the Executive branch of the Government designated by the President, to hold the office of Defense Materials Procurement Administrator in addition to his other office: *Provided*, That the office of Administrator shall have no compensation attached to it so long as it is held by any other officer of the Government.

PART II. FUNCTIONS OF THE DEFENSE MATERIALS PROCUREMENT ADMINISTRATOR

SEC. 201. [Section revoked sections 303 and 304 of Ex. Ord. No. 10161, Sept. 9, 1950, 15 F. R. 6105, set out as a note under section 2071 of this Appendix, and substituted therefor sections 303—309.]

SEC. 202. The Defense Materials Procurement Agency is hereby designated as an additional guaranteeing agency under section 301 of the Defense Production Act of 1950, as amended [section 2091 of this Appendix]; and, accordingly, section 301 of Executive Order No. 10161 of September 9, 1950, as amended, is hereby amended by inserting therein, after the words "the Department of Agriculture", the words "the Defense Materials Procurement Agency".

SEC. 203. The provisions of Part I of Executive Order No. 10210 of February 2, 1951 (16 F. R. 1049), entitled "Authorizing the Department of Defense and the Department of Commerce to Exercise the Functions and Powers set forth in Title II of the First War Powers Act, 1941, as amended by the Act of January 12, 1951 [section 611 of this Appendix], and Prescribing Regulations for the Exercise of Such Functions and Powers" [set out as a note under section 611 of this Appendix], are hereby extended to the Defense Materials Procurement Agency; and, subject to the limitations and regulations contained in such Part I and under such regulations as he may prescribe, the Defense Materials Procurement Administrator is authorized to perform and exercise, as to the Defense Materials Procurement Agency, all the functions and authority vested in and granted by Part I of the said Executive Order No. 10210 to the Secretaries named therein: *Provided*, That the regulations so prescribed need not be approved by the Secretary of Defense: *And provided further*, That nothing contained herein shall prejudice any other authority which the Defense Materials Procurement Agency or the Defense Materials Procurement Administrator may have with respect to procurement.

PART III. LOANS TO PRIVATE BUSINESS ENTERPRISES

SEC. 301. [Section amended Ex. Ord. No. 10161, Sept. 9, 1950, 15 F. R. 6105, set out as a note under section 2071 of this Appendix, by adding sections 310 and 311.]

PART IV. MISCELLANEOUS AMENDMENTS OF PRIOR ORDERS

SEC. 401. [Section amended Ex. Ord. No. 10161, Sept. 9, 1950, 15 F. R. 6105, set out as a note under section 2071 of this Appendix, by adding section 802.]

SEC. 402. [Section amended Ex. Ord. No. 10161, Sept. 9, 1950, 15 F. R. 6105, set out as a note under section 2071 of this Appendix, by adding paragraph (1) to section 901.]

SEC. 403. [Section amended Ex. Ord. No. 10161, Sept. 9, 1950, 15 F. R. 6105, set out as a note under section 2071 of this Appendix by changing section 201 (b) to conform to amendments to section 2081 of this Appendix made by the Defense Production Act Amendments of 1951.]

SEC. 404. [Section amended section 301 of Ex. Ord. No. 10161, Sept. 9, 1950, 15 F. R. 6105, set out as a note under section 2071 of this Appendix by inserting the words "the Atomic Energy Commission" and revoked Executive Order No. 10223, Mar. 12, 1951, 16 F. R. 2247.]

SEC. 405. (a) The term "Defense Production Act of 1950," wherever it occurs in Executive Order No. 10200 of January 3, 1951 [set out as a note under this section], shall be deemed to include, except as may be inappropriate, the Defense Production Act of 1950, as amended.

(b) The functions delegated to the Defense Production Administrator by section 2 (a) of Executive Order No. 10200 of January 3, 1951 [set out as a note under this section], shall be deemed to include the functions conferred upon the President by section 201 (b) of the Defense Production Act of 1950, as amended [section 2081 (b) of this Appendix].

(c) Section 2 (b) of the said Executive Order No. 10200 is hereby revoked.

(d) Except as specifically provided in this Executive order, the provisions of Executive Order No. 10200 shall not be deemed to be revoked or superseded hereby.

PART V. GENERAL PROVISIONS

SEC. 501. (a) There shall be transferred to the Defense Materials Procurement Agency so much of the personnel, records, property, and unexpended balances of appropriations, allocations, and other funds of the various agencies now administering the activities under the Defense Production Act of 1950 [sections 2061—2166 of this Appendix] which by this order are delegated or assigned to the Defense Materials Procurement Agency or the head thereof as the Director of the Bureau of the Budget deems to relate to the said functions and to be required by the Defense Materials Procurement Agency for the performance of the said functions.

(b) The Director of the Bureau of the Budget, with the approval of the President, shall make such determinations and dispositions and take such measures, which shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate, as he shall deem to be necessary in order to effectuate the provisions of section 501 (a) hereof.

SEC. 502. (a) To the extent that any provision of any prior Executive order is inconsistent with the provisions of this order, the latter shall control and such prior provision is amended accordingly.

(b) All orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this Executive order shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority.

SEC. 503. Part II and section 501 of this Executive order shall not become effective until the Defense Materials Procurement Administrator first appointed hereunder enters upon office as Administrator.

EX ORD. NO. 10308. COMMITTEE ON GOVERNMENT CONTRACT COMPLIANCE

Ex. Ord. No. 10308, Dec. 5, 1951, 16 F. R. 12303, provided:

SECTION 1. The head of each contracting agency of the Government of the United States shall be primarily responsible for obtaining compliance by any contractor or subcontractor with the said nondiscrimination provisions of any contract entered into, amended, or modified by his agency and of any subcontract thereunder, and shall take appropriate measures to bring about the said compliance.

SEC. 2. There is hereby established the Committee on Government Contract Compliance, hereinafter referred to as the Committee. The Committee shall be composed of eleven members as follows:

(a) One representative of each of the following-named agencies (hereinafter referred to as the participating agencies), who shall be designated by the respective heads of the participating agencies: the Department of Defense, the Department of Labor, the Atomic Energy Commission, the General Services Administration, and the Defense Materials Procurement Agency.

(b) Six other members, who shall be designated by the President.

The Committee shall have a chairman and a vice-chairman, both of whom shall be designated by the President from among its members.

SEC. 3. The Committee is authorized on behalf of the President to examine and study the rules, procedures, and practices of the contracting agencies of the Government as they relate to obtaining compliance with Government contract provisions prohibiting the discrimination referred to above in order to determine in what respects such rules, procedures, and practices may be strengthened and improved. The Committee shall confer and advise with the appropriate officers of the various contracting agencies and with other persons concerned with a view toward the prevention and elimination of such discrimination, and may make to the said officers recommendations which in the judgment of the Committee will prevent or eliminate discrimination. When deemed necessary by the Committee it may submit any of these recommendations to the Director of Defense Mobilization, and the Director shall, when he deems it appropriate, forward such recommendations to the President, accompanied by a statement of his views as to the

relationship thereof to the mobilization effort. The Committee shall establish such rules as may be necessary for the performance of its functions under this order.

SEC. 4. All contracting agencies of the Government are authorized and directed to cooperate with the Committee and, to the extent permitted by law, to furnish the Committee such information and assistance as it may require in the performance of its functions under this order. The participating agencies shall defray such necessary expenses of the Committee as may be authorized by law, including section 214 of the act of May 3, 1945, 59 Stat. 134 [section 691 of Title 31].

§ 2154. Rules, regulations, and orders.

The President may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of this Act [sections 2061—2166 of this Appendix]. Any regulation or order under this Act [said sections] may be established in such form and manner, may contain such classifications and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this Act [said sections], or to prevent circumvention or evasion, or to facilitate enforcement of this Act [said sections], or any rule, regulation, or order issued under this Act [said sections]. No rule, regulation, or order issued under this Act [said sections] which restricts the use of natural gas (either directly, or by restricting the use of facilities for the consumption of natural gas, or in any other manner) shall apply in any State in which a public regulatory agency has authority to restrict the use of natural gas and certifies to the President that it is exercising that authority to the extent necessary to accomplish the objectives of this Act [said sections]. (Sept. 8, 1950, ch. 932, title VII, § 704, 64 Stat. 816; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 109 (c), 65 Stat. 139.)

AMENDMENTS

1951—Act July 31, 1951 amended section to limit authority to regulate natural gas where a State agency is handling the matter.

§ 2155. Investigations; records; reports; subpoenas; right to counsel.

(a) The President shall be entitled, while this Act [sections 2061—2166 of this Appendix] is in effect and for a period of two years thereafter, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in his discretion, to the enforcement or the administration of this Act [said sections] and the regulations or orders issued thereunder. The President shall issue regulations insuring that the authority of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this

subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the President, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirement under this section or from attending and testifying or from producing books, papers, documents, and other evidence in obedience to a subpoena before any grand jury or in any court or administrative proceeding based upon or growing out of any alleged violation of this Act [sections 2061—2166 of this Appendix] on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture; but no natural person shall be prosecuted or subjected to any penalty or forfeiture in any court, for or on account of any transaction, matter, or thing concerning which he is so compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such natural person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying: *Provided*, That the immunity granted herein from prosecution and punishment and from any penalty or forfeiture shall not be construed to vest in any individual any right to priorities assistance to the allocation of materials, or to any other benefit which is within the power of the President to grant under any provision of this Act [said sections].

(c) The production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if, prior to the return date specified in the regulations, subpoena, or other document issued with respect thereto, such person furnishes the President with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the President as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(d) Any person who willfully performs any act prohibited or willfully fails to perform any act required by the above provisions of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$1,000 or imprisoned for not more than one year or both.

(e) Information obtained under this section which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000, or imprisoned for not more than one year, or both.

(f) Any person subpoenaed under this section shall have the right to make a record of his testimony and to be represented by counsel. (Sept. 8, 1950, ch. 932, title VII, § 705, 64 Stat. 816; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 109 (d), 65 Stat. 139; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 117, 66 Stat. 306.)

AMENDMENTS

1952—Subsec. (f) added by act June 30, 1952.

1951—Subsec. (a) amended by act July 31, 1951 to make it clear that the President has authority to administer oaths and affirmations.

CROSS REFERENCES

Official notice of facts found as a result of action under this section, see section 2107 (b) of this Appendix.

§ 2156. Jurisdiction of courts; injunctions; venue; process; effect of termination of Act.

(a) Whenever in the judgment of the President any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act [sections 2061—2166 of this Appendix], he may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the President that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

(b) The district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this Act [sections 2061—2166 of this Appendix] or any rule, regulation, order, or subpoena thereunder, and of all civil actions under this Act [said sections] to enforce any liability or duty created by, or to enjoin any violation of, this Act [said sections] or any rule, regulation, order, or subpoena thereunder. Any criminal proceeding on account of any such violation may be brought in any district in which any act, failure to act, or transaction constituting the violation occurred. Any such civil action may be brought in any such district or in the district in which the defendant resides or transacts business. Process in such cases, criminal or civil, may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found; the subpoena for witnesses who are required to attend a court in any district in such case may run into any other district. The termination of the authority granted in any title or section of this Act [said sections], or of any rule, regulation, or order issued thereunder, shall not operate to defeat any suit, action, or prosecution, whether theretofore or thereafter commenced, with respect to any right, liability, or offense incurred or committed prior to the termination date of such title or of such rule, regulation, or order. No costs shall be assessed against the United States in any proceeding under this Act [said sections]. All litigation arising under

this Act [said sections] or the regulations promulgated thereunder shall be under the supervision and control of the Attorney General. (Sept. 8, 1950, ch. 932, title VII, § 706, 64 Stat. 817; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 109 (e), 65 Stat. 139.)

AMENDMENTS

1951—Subsec. (a) amended by act July 31, 1951 to broaden the relief a court may grant when the Government seeks to enjoin violations.

§ 2157. Liability for compliance with invalid regulations; discrimination against orders or contracts affected by priorities or allocations.

No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with a rule, regulation, or order issued pursuant to this Act [sections 2061—2166 of this Appendix], notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid. No person shall discriminate against orders or contracts to which priority is assigned or for which materials or facilities are allocated under title I of this Act [sections 2071—2074 of this Appendix] or under any rule, regulation, or order issued thereunder, by charging higher prices or by imposing different terms and conditions for such orders or contracts than for other generally comparable orders or contracts, or in any other manner. (Sept. 8, 1950, ch. 932, title VII, § 707, 64 Stat. 818; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 118, 66 Stat. 306.)

AMENDMENTS

1952—Act June 30, 1952, amended first sentence by striking out "his" preceding "compliance with".

§ 2158. Voluntary agreements and programs; exemptions from anti-trust laws and Federal Trade Commission Act; survey and reports to Congress; termination.

(a) The President is authorized to consult with representatives of industry, business, financing, agriculture, labor, and other interests, with a view to encouraging the making by such persons with the approval by the President of voluntary agreements and programs to further the objectives of this Act [sections 2061—2166 of this Appendix].

(b) No act or omission to act pursuant to this Act [sections 2061—2166 of this Appendix] which occurs while this Act [said sections] is in effect, if requested by the President pursuant to a voluntary agreement or program approved under subsection (a) of this section and found by the President to be in the public interest as contributing to the national defense shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act of the United States. A copy of each such request intended to be within the coverage of this section, and any modification or withdrawal thereof, shall be furnished to the Attorney General and the Chairman of the Federal Trade Commission when made, and it shall be published in the Federal Register unless publication thereof would, in the opinion of the President, endanger the national security.

(c) The authority granted in subsection (b) of this section shall be delegated only (1) to officials who shall for the purpose of such delegation be required to be appointed by the President by and with the advice and consent of the Senate, unless otherwise required to be so appointed, and (2) upon the condition that such officials consult with the Attorney General and with the Chairman of the Federal Trade Commission not less than ten days before making any request or finding thereunder, and (3) upon the condition that such officials obtain the approval of the Attorney General to any request thereunder before making the request. For the purpose of carrying out the objectives of title I of this Act [sections 2071—2074 of this title], the authority granted in subsection (b) of this section shall not be delegated except to a single official of the Government.

(d) Upon withdrawal of any request or finding made hereunder the provisions of this section shall not apply to any subsequent act or omission to act by reason of such finding or request.

(e) The Attorney General is directed to make, or request the Federal Trade Commission to make for him, surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of this Act [sections 2061—2166 of this Appendix]. The Attorney General shall submit to the Congress and the President within ninety days after the approval of this Act [September 8, 1950], and at such times thereafter as he deems desirable, reports setting forth the results of such surveys and including such recommendations as he may deem desirable.

(f) After the date of enactment of the Defense Production Act Amendments of 1952 [June 30, 1952], no voluntary program or agreement for the control of credit shall be approved or carried out under this section. (Sept. 8, 1950, ch. 932, title VII, § 708, 64 Stat. 818; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 116 (c), 66 Stat. 305.)

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in the text of subsection (b), is classified to sections 41—46 and 47—58 of Title 15, Commerce and Trade.

AMENDMENTS

1952—Subsec. (f) added by act June 30, 1952.

Ex. ORD NO. 10370. DELEGATION OF AUTHORITY TO THE SMALL DEFENSE PLANTS ADMINISTRATOR

Ex. ORD. NO. 10370, July 8, 1952, 17 F. R. 6141, provided:
SECTION 1. The authority vested in the President by section 708 of the Act [this section] relating to voluntary agreements and programs to further the objectives of the Act is hereby delegated to the Small Defense Plants Administrator to the extent that it may be exercised with respect to the approval of small-business production pools, including the conduct of consultation and encouragement, and the making of requests and findings, necessary in connection with such pools: *Provided*, that such delegation shall not be construed as limiting any other delegation of such authority heretofore made.

SEC. 2. The delegation of authority made by section 1 of this order shall be subject to the following conditions:

(a) The Small Defense Plants Administrator shall consult with the Attorney General and the Chairman of the

Federal Trade Commission not less than ten days before making any request or finding under section 708 (b) of the Act [subsection (b) of this section].

(b) The Small Defense Plants Administrator shall obtain the approval of the Attorney General of any request under the said section 708 (b) [subsection (b) of this section] before making the request.

SEC. 3. Subject to the limitations and conditions contained in the said section 708 of the Act [this section], the Small Defense Plants Administrator may redelegate the authority delegated to him by section 1 of this order, and may authorize successive redelegations thereof, to any officer or agency of the Government.

§ 2159. Exemption from Administrative Procedure Act; statements in rules, regulations, and orders as to consultation with industry representatives.

The functions exercised under this Act [sections 2061—2166 of this Appendix] shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 thereof [section 1002 of Title 5]. Any rule, regulation, or order, or amendment thereto, issued under authority of this Act [sections 2061—2166 of this Appendix] shall be accompanied by a statement that in the formulation thereof there has been consultation with industry representatives, including trade association representatives, and that consideration has been given to their recommendations, or that special circumstances have rendered such consultation impracticable or contrary to the interest of the national defense, but no such rule, regulation, or order shall be invalid by reason of any subsequent finding by judicial or other authority that such a statement is inaccurate. (Sept. 8, 1950, ch. 932, title VII, § 709, 64 Stat. 819.)

REFERENCES IN TEXT

Administrative Procedure Act, referred to in the catchline and text, is classified to chapter 19 of Title 5, Executive Departments and Government Officers and Employees.

§ 2160. Employment of personnel; use of confidential information by employees; printing and distribution of reports.

(a) The President, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act [sections 2061—2166 of this Appendix], is authorized to place positions and employ persons temporarily in grades 16, 17, and 18 of the General Schedule established by the Classification Act of 1949, and such positions shall be additional to the number authorized by section 505 of that Act [section 1105 of Title 5].

(b) The President is further authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act [sections 2061—2166 of this Appendix], and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation; and he is authorized to provide by regulation for the exemption of such persons from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 99 of Title 5. Persons appointed under the authority of this subsection may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment.

(c) The President is authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act [sections 2061—2166 of this Appendix] to employ experts and consultants or organizations thereof, as authorized by section 55a of Title 5. Individuals so employed may be compensated at rates not in excess of \$50 per diem and while away from their homes or regular places of business they may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence and other expenses while so employed. The President is authorized to provide by regulation for the exemption of such persons from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 99 of Title 5.

(d) The President may utilize the services of Federal, State, and local agencies and may utilize and establish such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed; and he is authorized to provide by regulation for the exemption of persons whose services are utilized under this subsection from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 99 of Title 5.

(e) Whoever, being an officer or employee of the United States or any department or agency thereof (including any Member of the Senate or House of Representatives), receives, by virtue of his office or employment, confidential information, and (1) uses such information in speculating directly or indirectly on any commodity exchange, or (2) discloses such information for the purpose of aiding any other person so to speculate, shall be fined not more than \$10,000 or imprisoned not more than one year, or both. As used in this section, the term "speculate" shall not include a legitimate hedging transaction, or a purchase or sale which is accompanied by actual delivery of the commodity.

(f) The President, when he deems such action necessary, may make provision for the printing and distribution of reports, in such number and in such manner as he deems appropriate, concerning the actions taken to carry out the objectives of this Act [sections 2061—2166 of this Appendix]. (Sept. 8, 1950, ch. 932, title VII, § 710, 64 Stat. 819; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 109 (f), 65 Stat. 139.)

REFERENCES IN TEXT

The Classification Act of 1949, referred to in the text of subsection (a), is classified to chapter 21 of Title 5, Executive Departments and Government Officers and Employees.

AMENDMENTS

1951—Subsec. (f) added by act July 31, 1951.

EX. ORD. NO. 10182. PROVISIONS FOR APPOINTMENTS AND EXEMPTIONS

Ex. Ord. No. 10182, Nov. 21, 1950, 15 F. R. 8013, as amended by Ex. Ord. No. 10205, Jan. 16, 1951, 16 F. R. 419, provided:

PART I

SECTION 101. (a) The head of any department or agency delegated or assigned functions under the Act [sections 2061—2166 of this Appendix] is hereby delegated the authority provided by subsection 710 (b) of the Act [subsection (b) of this section] to employ persons of outstanding experience and ability without compensation.

Authority to employ persons under this subsection 101 (a) in any such department or agency shall not be redelegated by the head of such department or agency.

(b) Such heads of departments or agencies are further delegated the authority provided by subsection 710 (c) of that Act [subsection (c) of this section] to employ experts and consultants, or organizations thereof.

(c) Such heads of departments or agencies are further delegated the authority provided by subsection 710 (d) of that Act [subsection (d) of this section] to utilize the services of Federal, State, and local agencies and to utilize and establish such regional, local, or other agencies, and to utilize such voluntary and uncompensated services as may from time to time be needed.

SEC. 102. The head of any department or agency delegated authority pursuant to subsections 101 (a) and 101 (b) of this Part shall be guided in the exercise of that authority by the following policies:

(a) So far as possible, operations under the Act [sections 2061—2166 of this Appendix] shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

(b) Appointments to positions other than advisory or consultative may be made under this order only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(c) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

SEC. 103. The authority delegated by subsection 101 (c) to utilize at the regional and local levels voluntary and uncompensated services is not subject to the policies prescribed in section 102. Such authority may not be exercised, however, to fill positions subject to the Classification Act of 1949 [sections 1071—1153 of Title 5].

PART II

SEC. 201. Any person employed under Part I of this order is hereby exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914 of Title 18, United States Code, and section 190 of the Revised Statutes [section 99 of Title 5], except as specified in the following subsections:

(a) Exemption hereunder shall not extend to the negotiation or execution, by an appointee under this order, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest.

(b) Exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, under the provisions of the Act [sections 2061—2166 of this Appendix] made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest.

(c) In the case of appointments under subsections 101 (a) and 101 (b) hereof, exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this order, during the period of such employment and the further period of two years after the termination of such employment. In the case of appointments under subsection 101 (c) hereof, exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government growing out of any matter with respect to which the appointee was personally concerned in his official capacity during his employment

under this order, during the period of such employment and the further period of two years after the termination of such employment.

(d) In the case of appointments under subsection 101 (a) hereof, exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

(e) Exemption from sections 434 and 1914 of Title 18, United States Code, shall not extend to persons appointed as experts or consultants under subsection 101 (b) hereof.

SEC. 301. Appointments under subsection 101 (a) of this order to positions other than advisory or consultative shall be supported by written certification by the head of the employing department or agency:

(a) That the appointment is necessary and appropriate in order to carry out the provisions of the Act;

(b) That the duties of the position to which the appointment is being made require outstanding experience and ability;

(c) That the appointee has the outstanding experience and ability required by the position; and

(d) That the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

SEC. 302. The heads of the departments or agencies making appointments under this order shall file with the Division of the Federal Register (for public inspection but not for publication) a statement including the name of the appointee, the section of this order under which he was appointed, the employing department or agency, the title of his position, and the name of his private employer.

SEC. 303. All appointments under subsections 710 (b), 710 (c), and 710 (d) of the Act [subsections (b)—(d) of this section] shall be made under the terms of this order after the date hereof, and appointments heretofore made under those subsections of the Act [said subsections] shall be deemed for all purposes to have been made under this order upon compliance with the preceding sections of this Part.

SEC. 304. At least once every three months, the Chairman of the United States Civil Service Commission shall survey appointments made under this order and shall report his findings to the President and make such recommendations as he may deem proper.

§ 2161. Appropriations authorized; availability of funds.

There are authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this Act [sections 2061—2166 of this Appendix] by the President and such agencies as he may designate or create. Funds made available for the purposes of this Act [said sections] may be allocated or transferred for any of the purposes of this Act [said sections], with the approval of the Bureau of the Budget, to any agency designated to assist in carrying out this Act [said sections]. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available. (Sept. 8, 1950, ch. 932, title VII, § 711, 64 Stat. 820.)

§ 2162. Joint Committee on Defense Production.

(a) There is established a joint congressional committee to be known as the Joint Committee on Defense Production (hereinafter referred to as the committee), to be composed of ten members as follows:

(1) Five members who are members of the Committee on Banking and Currency of the Senate,

three from the majority and two from the minority party, to be appointed by the chairman of the committee; and

(2) Five members who are members of the Committee on Banking and Currency of the House of Representatives, three from the majority and two from the minority party, to be appointed by the chairman of the committee.

A vacancy in the membership of the committee shall be filled in the same manner as the original selection. The committee shall elect a chairman and a vice chairman from among its members, one of whom shall be a member of the Senate and the other a member of the House of Representatives.

(b) It shall be the function of the Committee to make a continuous study of the programs and of the fairness to consumers of the prices authorized by this Act [sections 2061—2166 of this Appendix] and to review the progress achieved in the execution and administration thereof. Upon request, the committee shall aid the standing committees of the Congress having legislative jurisdiction over any part of the programs authorized by this Act [said sections]; and it shall make a report to the Senate and the House of Representatives, from time to time, concerning the results of its studies, together with such recommendations as it may deem desirable. Any department, official, or agency administering any of such programs shall, at the request of the committee, consult with the committee, from time to time, with respect to their activities under this Act [said sections].

(c) The committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, to require by subpoena (to be issued under the signature of the chairman or vice chairman of the committee) or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The provisions of sections 102 to 104, inclusive, of the Revised Statutes [sections 192—194 of Title 2] shall apply in case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection.

(d) The committee is authorized to appoint and, without regard to the Classification Act of 1949, as amended, fix the compensation of such experts, consultants, technicians, and organizations thereof, and clerical and stenographic assistants as it deems necessary and advisable.

(e) The expenses of the committee under this section, which shall not exceed \$50,000 in any fiscal year, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives upon vouchers signed by the chairman or vice chairman. Disbursements to pay such expenses shall be made by the Clerk of the House of Representatives out of the contingent fund of the House of Representatives, such

contingent fund to be reimbursed from the contingent fund of the Senate in the amount of one-half of disbursements so made without regard to any other provision of law. (Sept. 8, 1950, ch. 932, title VII, § 712, 64 Stat. 820; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 119, 66 Stat. 306.)

REFERENCES IN TEXT

The Classification Act of 1949, as amended, referred to in the text of subsection (d), is classified to chapter 21 of Title 5, Executive Departments and Government Officers and Employees.

AMENDMENTS

1952—Subsec. (b) amended by act June 30, 1952, which inserted in first sentence "and of fairness to consumers of the prices."

§ 2163. Territorial application of Act.

The provisions of this Act [sections 2061—2166 of this Appendix] shall be applicable to the United States, its Territories and possessions, and the District of Columbia. (Sept. 8, 1950, ch. 932, title VII, § 713, 64 Stat. 821.)

§ 2163a. Small Defense Plants Administration—(a) Creation; independent agency; principal office; branches; definition; revolving fund; management; officers; termination date; depositaries.

(1) It is the sense of the Congress that small-business concerns be encouraged to make the greatest possible contribution toward achieving the objectives of this Act [sections 2061—2166 of this Appendix]. In order to carry out this policy there is created an agency under the name "Small Defense Plants Administration" (hereinafter referred to as the Administration), which Administration shall be under the general direction and supervision of the President and shall not be affiliated with or be within any other agency or department of the Federal Government. The principal office of the Administration shall be located in the District of Columbia, but the Administration may establish such branch offices in other places in the United States as may be determined by the Administrator of the Administration. For the purposes of this section, a small-business concern shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation. The Administration, in making a detailed definition, may use these criteria, among others: independency of ownership and operation, number of employees, dollar volume of business, and nondominance in its field.

(2) The Administration is authorized to obtain money from the Treasury of the United States, for use in the performance of the powers and duties granted to or imposed upon it by law, not to exceed a total of \$50,000,000 outstanding at any one time. For this purpose appropriations not to exceed \$50,000,000 are authorized to be made to a revolving fund in the Treasury. Advances shall be made to the Administration from the revolving fund when requested by the Administration. This revolving fund shall be used for the purposes enumerated subsequently in subsection (b) (1) (B), (C), and (D) of this section. Reimbursements made to the Administration under these operations shall revert to the revolving fund for use for the same purposes.

(3) The management of the Administration shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be a person of outstanding qualifications known to be familiar and sympathetic with small-business needs and problems. The Administrator shall receive compensation at the rate of \$17,500 per annum. The Administrator shall not engage in any other business, vocation, or employment than that of serving as Administrator. The Administrator is authorized to appoint two Deputy Administrators to assist in the execution of the functions vested in the Administration. Deputy Administrators shall be paid at the rate of \$15,000 per annum.

(4) The Administration shall not have succession, beyond June 30, 1953, except for purposes of liquidation, unless its life is extended beyond such date pursuant to an Act of Congress. It shall have power to adopt, alter, and use a seal, which shall be judicially noticed; to select and employ such officers, employees, attorneys, and agents as shall be necessary for the transaction of business of the Administration; to define their authority and duties, require bonds of them, and fix the penalties thereof. The Administration, with the consent of any board, commission, independent establishment, or executive department of the Government, may avail itself of the use of information, services, facilities, including any field service thereof, officers, and employees thereof in carrying out the provisions of this section.

(5) All moneys of the Administration not otherwise employed may be deposited with the Treasurer of the United States subject to check by authority of the Administration or in any Federal Reserve bank. The Federal Reserve banks are authorized and directed to act as depositaries, custodians, and fiscal agents for the Administration in the general performance of its powers conferred by this Act [sections 2061—2166 of this Appendix]. All insured banks, when designated by the Secretary of the Treasury, shall act as custodians, and financial agents for the Administration.

(b) Powers; procurement contracts.

(1) Without regard to any other provision of law except the regulations prescribed under section 201 of the First War Powers Act, 1941, as amended [section 611 of this Appendix], the Administration is empowered—

(A) to recommend to the Reconstruction Finance Corporation loans or advances, on such terms and conditions and with such maturity as the Reconstruction Finance Corporation may determine on its own discretion, to enable small-business concerns to finance plant construction, conversion, or expansion, including the acquisition of land; or finance the acquisition of equipment, facilities, machinery, supplies, or materials; or to finance research, development, and experimental work on new or improved products or processes; or to supply such concerns with capital to be used in the manufacture of articles, equipment, supplies, or materials for defense or essential civilian purposes; or to establish and operate technical laboratories to serve small-busi-

ness concerns; such loans or advances to be made or effected either directly by the Reconstruction Finance Corporation or in cooperation with banks or other lending institutions through agreements to participate in insurance of loans, or by the purchase of participations, or otherwise;

(B) to enter into contracts with the United States Government and any department, agency, or officer thereof having procurement powers obligating the Administration to furnish articles, equipment, supplies, or materials to the Government;

(C) to arrange for the performance of such contracts by letting subcontracts to small-business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Administration to perform such contracts; and

(D) to provide technical and managerial aids to small-business concerns, by maintaining a clearinghouse for technical information, by cooperating with other Government agencies, by disseminating information, and by such other activities as are deemed appropriate by the Administration.

(2) In any case in which the Administration certifies to any officer of the Government having procurement powers that the Administration is competent to perform any specific Government procurement contract to be let by any such officers, such officer shall be authorized to let such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer.

(c) False statements; overvaluation of securities; embezzlement, etc.; penalties.

(1) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Administration, or for the purpose of obtaining money, property, or anything of value, under this section, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both.

(2) Whoever, being connected in any capacity with the Administration (A) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to it, or (B) with intent to defraud the Administration or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Administration makes any false entry in any book, report, or statement of or to the Administration, or, without being duly authorized, draws any order or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or (C) with intent to defraud participates, shares,

receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other act of the Administration, or (D) gives any unauthorized information concerning any future action or plan of the Administration which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans or other assistance from the Administration shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

(d) Coordination of small-business concerns; consultation with other Federal agencies.

(1) It shall be the duty of the Administration and it is empowered, to coordinate and to ascertain the means by which the productive capacity of small-business concerns can be most effectively utilized for national defense and essential civilian production.

(2) It shall be the duty of the Administration and it is empowered, to consult and cooperate with appropriate governmental agencies in the issuance of all orders limiting or expanding production by, or in the formulation of policy in granting priorities to, business concerns. All such governmental agencies are required, before issuing such orders or announcing such priority policies, to consult with the Administration in order that small-business concerns will be most effectively utilized in the production of articles, equipment, supplies and materials for national defense and essential civilian purposes.

(e) Additional powers.

The Administration shall have power, and it is directed, whenever it determines such action is necessary—

(1) to make a complete inventory of all productive facilities of small-business concerns which can be used for defense and essential civilian production or to arrange for such inventory to be made by any other governmental agency which has the facilities. In making any such inventory, the appropriate agencies in the several States shall be requested to furnish an inventory of productive facilities of small-business concerns in each respective State if such an inventory is available or in prospect;

(2) to consult and cooperate with officers of the Government having procurement powers, in order to utilize the potential productive capacity of plants operated by small-business concerns;

(3) to obtain information as to methods and practices which Government prime contractors utilize in letting subcontracts and to take action to encourage the letting of subcontracts by prime contractors to small-business concerns at prices and on conditions and terms which are fair and equitable;

(4) to take such action, authorized under this section, as is necessary to provide small-business concerns with an adequate incentive, excluding subsidies, to engage in defense and essential civilian

production and to facilitate the conversion and equipping of plants of small-business concerns for such production;

(5) to determine within any industry the concerns, firms, persons, corporations, partnerships, cooperatives, or other business enterprises, which are to be designated "small-business concerns" for the purpose of effectuating the provisions of this section;

(6) to certify to Government procurement officers with respect to the competency, as to capacity and credit, of any small-business concern or group of such concerns to perform a specific Government procurement contract;

(7) to obtain from any Federal department, establishment, or agency engaged in defense procurement or in the financing of defense procurement or production such reports concerning the letting of contracts and subcontracts and making of loans to business concerns as it may deem pertinent in carrying out its functions under this Act [sections 2061—2166 of this Appendix];

(8) to obtain from suppliers of materials information pertaining to the method of filling orders and the bases for allocating their supply, whenever it appears that any small business is unable to obtain materials for defense or essential civilian production from its normal sources;

(9) to make studies and recommendations to the appropriate Federal agencies to insure a fair and equitable share of materials, supplies, and equipment to small-business concerns to effectuate the defense program or for essential civilian purposes;

(10) to consult and cooperate with all Government agencies for the purpose of insuring that small-business concerns shall receive fair and reasonable treatment from said agencies; and

(11) to establish such advisory boards and committees wholly representative of small business as may be found necessary to achieve the purposes of this section.

(f) Certification of small-business concern as conclusive proportionment of business; allocation of materials and supplies; share of available civilian supply.

(1) In any case in which a small-business concern or group of such concerns has been certified by or under the authority of the Administration to be a competent Government contractor with respect to capacity and credit as to a specific Government procurement contract, the officers of the Government having procurement powers are directed to accept such certification as conclusive, and are authorized to let such Government procurement contract to such concern or group of concerns without requiring it to meet any other requirement with respect to capacity and credit.

(2) The Congress has as its policy that a fair proportion of the total purchases and contracts for supplies and services for the Government shall be placed with small-business concerns. To effectuate such policy, small-business concerns within the meaning of this section shall receive any award or contract or any part thereof as to which it is de-

termined by the Administration and the contracting procurement agencies (A) to be in the interest of mobilizing the Nation's full productive capacity, or (B) to be in the interest of the national defense program, to make such award or let such contract to a small-business concern.

(3) Whenever materials or supplies are allocated by law, a fair and equitable percentage thereof shall be allocated to small plants unable to obtain the necessary materials or supplies from usual sources. Such percentage shall be determined by the head of the lawful allocating authority after giving full consideration to the claims presented by the Administration.

(4) Whenever the President invokes the powers given him in this Act [sections 2061—2166 of this Appendix] to allocate, or approve agreements allocating, any material, to an extent which the President finds will result in a significant dislocation of the normal distribution in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding June 24, 1950: *Provided*, That the limitations and restrictions imposed on the production of specific items should give due consideration to the needs of new concerns.

(g) Reports.

The Administration shall make a report every ninety days of operations under this title [sections 2151—2166 of this Appendix] to the President, the President of the Senate, and the Speaker of the House of Representatives. Such report shall include the names of the business concerns to whom contracts are let, and for whom financing is arranged, by the Administration, together with the amounts involved, and such report shall include such other information, and such comments and recommendations, with respect to the relation of small-business concerns to the defense effort, as the Administration may deem appropriate.

(h) Studies by Administration.

The Administration is empowered to make studies of the effect of price, credit, and other controls imposed under the defense program and whenever it finds that these controls discriminate against or impose undue hardship upon small business, to make recommendations to the appropriate Federal agency for the adjustment of controls to the needs of small business.

(i) Loans and advances to Administration.

The Reconstruction Finance Corporation is authorized to make loans and advances upon the recommendation of the Small Defense Plants Administration as provided in subsection (b) (1) (A) of this section not to exceed an aggregation of \$100,000,000 outstanding at any one time, on such terms and conditions and with such maturities as Reconstruction Finance Corporation may determine.

(j) Transfer of functions.

The President may transfer to the Administration any functions, powers, and duties of any department or agency which relates primarily to small-business problems.

(k) Conditions precedent for business loans, equipment, facilities, or services.

No loan shall be recommended or equipment, facilities, or services furnished by the Administration under this section to any business enterprise unless the owners, partners or officers of such business enterprise (1) certify to the Administration the names of any attorneys, agents, or other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Administration for assistance of any sort, and the fees paid or to be paid to any such persons, and (2) execute an agreement binding any such business enterprise for a period of two years after any assistance is rendered by the Administration to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within one year prior thereto, shall have served as an officer, attorney, agent or employee of the Administration occupying a position or engaging in activities which the Administration shall have determined involve discretion with respect to the granting of assistance under this section.

(l) Fair charge for use of Government-owned property.

To the fullest extent the Administration deems practicable, it shall make a fair charge for the use of Government-owned property and make and let contracts on a basis that will result in a recovery of the direct costs incurred by the Administration.

(m) Appropriations.

There are authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this section. (Sept. 8, 1950, ch. 932, title VII, § 714, as added July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 110 (a), 65 Stat. 139, and amended June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 121 (a), 66 Stat. 306.)

AMENDMENTS

1952—Subsec. (a) (4) amended by act June 30, 1952 to extend the Administration from June 30, 1952 to June 30, 1953.

EX. ORD. NO. 10323. TRANSFER OF FUNCTIONS

Ex. Ord No. 10323, Feb. 5, 1952, 17 F. R. 1145, provided:

SECTION 1. There are hereby transferred from the Department of Commerce to the Small Defense Plants Administration the functions with respect to

(1) any assistance given to small-business establishments concerning Government procurement,

(2) the furnishing of advice to small-business establishments concerning the approval and operation of small-business production pools,

(3) the classification of manufacturing concerns according to size,

(4) economic studies of small-business defense problems, exclusive of so much of such studies as is necessary to be made by the National Production Authority or its successor to determine the effect of actions taken by it,

(5) the furnishing of advice and information concerning Government financial assistance to small business,

(6) the coordination of the inventorying of the available productive capacity of small business, and

(7) the development and distribution of managerial aids for small business, excluding that part thereof which is performed for or otherwise relates to educational institutions

which were on December 1, 1951, administered by the Office of Small Business in the National Production Authority, Department of Commerce.

SEC. 2. The functions hereinabove transferred shall be administered by the Small Defense Plants Administrator or, subject to his direction and control, by such officers and employees of the Small Defense Plants Administration as he shall designate.

SEC. 3. Officers of the Government exercising functions which are pertinent to the responsibilities of the Small Defense Plants Administration shall facilitate the discharge of those responsibilities by keeping the Small Defense Plants Administrator currently informed with respect to the exercise of such functions, including prospective actions, and by providing for participation in deliberations affecting small businesses by representatives of the Small Defense Plants Administration.

SEC. 4. There shall be transferred to the Small Defense Plants Administration so much of the personnel, records, property, and unexpended balances of appropriations, allocations, and other funds of the Department of Commerce as the Director of the Bureau of the Budget shall, with the approval of the President, determine to relate primarily to the functions transferred by section 1 of this order.

SEC. 5. The provisions of sections 902 and 903 of Executive Order No. 10161, as amended (including those with respect to subpena) [set out as a note under section 2071 of this Appendix], are hereby made applicable to the Small Defense Plants Administrator with respect to his functions under section 714 of the Defense Production Act, as amended [this section], and under this order.

SEC. 6. To the extent that any provision of any prior Executive order or directive is inconsistent with the provisions of this order, the latter shall control.

§ 2164. Separability of provisions.

If any provision of this Act [sections 2061—2166 of this Appendix] or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act [said sections], and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (Sept. 8, 1950, ch. 932, title VII, § 715, 64 Stat. 821; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 110 (b), 65 Stat. 144.)

AMENDMENTS

1951—Act July 31, 1951 amended credit of section by redesignating section 714 of act Sept. 8, 1950, to be section 715 of said act Sept. 8, 1950.

§ 2165. Persons disqualified for employment; penalties.

No person may be employed under this Act [sections 2061—2166 of this Appendix] who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided*, That for the purposes hereof an affidavit shall be considered prima facie evidence that the person making the affidavit has not contrary to the provisions of this section engaged in a strike against the Government of the United States, is not

a member of an organization of Government employees that asserts the right to strike against the Government of the United States or that such person does not advocate, and is not a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided further*, That any person who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence and accepts employment the salary or wages for which are paid from any appropriation or fund contained in this Act shall be guilty of a felony and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penalty clause shall be in addition to, and not in substitution for, any other provisions of existing law. (Sept. 8, 1950, ch. 932, title VII, § 716, 64 Stat. 821; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 110 (b) 65 Stat. 144.)

AMENDMENTS

1951—Act July 31, 1951, amended credit of section by redesignating section 715 of act Sept. 8, 1950 to be section 716 of said act Sept. 8, 1950.

CROSS REFERENCES

Offenses punishable by imprisonment not exceeding one year classified as misdemeanors, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 2166. Termination of Act.

(a) Titles I, II, III, VI, and VII of this Act [sections 2071—2074, 2081, 2091—2094, 2132—2136, and 2151—2166 of this Appendix] and all authority conferred thereunder shall terminate at the close of June 30, 1953; and titles IV and V of this Act [sections 2101—2112 and 2121—2123 of this Appendix] and all authority conferred thereunder shall terminate at the close of April 30, 1953.

(b) Notwithstanding the foregoing—

(1) The Congress by concurrent resolution or the President by proclamation may terminate this Act [sections 2061—2166 of this Appendix] prior to the termination otherwise provided therefor.

(2) The Congress may also provide by concurrent resolution that any section of this Act [said sections] and all authority conferred thereunder shall terminate prior to the termination otherwise provided therefor.

(3) Any agency created under this Act [said sections] may be continued in existence for purposes of liquidation for not to exceed six months after the termination of the provision authorizing the creation of such agency.

(c) The termination of any section of this Act [sections 2061—2166 of this Appendix], or of any agency or corporation utilized under this Act [said sections], shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act [said sections] prior to the date

of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act [said sections].

(d) No action for the recovery of any cooperative payment made to a cooperative association by a Market Administrator under an invalid provision of a milk marketing order issued by the Secretary of Agriculture pursuant to the Agricultural Marketing Agreement Act of 1937 shall be maintained unless such action is brought by producers specifically named as party plaintiffs to recover their respective share of such payments within ninety days after the date of enactment of the Defense Production Act Amendments of 1952 [June 30, 1952] with respect to any cause of action heretofore accrued and not otherwise barred, or within ninety days after accrual with respect to future payments, and unless each claimant shall allege and prove (1) that he objected at the hearing to the provisions of the order under which such payments were made and (2) that he either refused to accept payments computed with such deduction or accepted them under protest to either the Secretary or the Administrator. The district courts of the United States shall have exclusive original jurisdiction of all such actions regardless of the amount involved. This subsection shall not apply to funds held in escrow pursuant to court order. Notwithstanding any other provision of this Act [sections 2061—2166 of this Appendix], no termination date shall be applicable to this subsection. (Sept. 8, 1950, ch. 932, title VII, § 717, 64 Stat. 822; June 30, 1951, ch. 198, § 1, 65 Stat. 110; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, §§ 110 (b), 111, 65 Stat. 144; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, §§ 120, 121 (b), 66 Stat. 306.)

REFERENCES IN TEXT

The Agricultural Marketing Agreement Act of 1937, referred to in the text of subsection (d), is classified to sections 601, 602, 608, 608a, 608b, 608c, 608d, 608e, 610, 612, 614, 624 and 671—673 of Title 7, Agriculture.

AMENDMENTS

1952—Subsec. (a) amended by act June 30, 1952, § 121 (b), to extend the termination dates from Apr. 30, 1952 to Apr. 30, 1953 and from June 30, 1952 to June 30, 1953.

Subsec. (d) added by act June 30, 1952, § 120.

1951—Act July 31, 1951 § 100 (b) amended credit of section by redesignating section 716 of act Sept. 8, 1950, to be section 717 of said act Sept. 8, 1950.

Subsec. (a) amended by acts July 31, 1951, § 111, and June 30, 1951. Act July 31, 1951 struck out former subsection (a) relating to termination of certain Titles of act Sept. 8, 1950 and substituted present subsection (a). Act June 30, 1951, extended termination date from June 30, 1951 to July 31, 1951.

Subsec. (b), formerly subsection (c), redesignated by act July 31, 1951 which struck out former subsection (b), which related to termination date of certain Titles of act Sept. 8, 1950. Former subsection (b) was amended by act June 30, 1951 to extend termination date from June 30, 1951, to July 31, 1951.

Subsec. (c), formerly subsection (d), redesignated by act July 31, 1951, § 111.

CROSS REFERENCES

Effect of termination of act on actions or prosecutions based on rights or liabilities arising prior to termination, see section 2156 (b) of this Appendix.

DEPENDENTS ASSISTANCE ACT OF 1950

ACT SEPT. 8, 1950, CH. 922, 64 STAT. 794

- Sec.
 2201. Determination of dependency of parents.
 2202. Dependents of enlisted members in grades E-4 to E-1.
 2203. Quarters allowances for enlisted members.
 2204. Quarters allowances and allotments of pay.
 2205. Quarters allowance not contingent on right to pay.
 2206. Allowance and allotment without consent of enlisted member.
 2207. Enlisted members not affected by act.
 2208. Aviation cadets.
 2209. Members furnished government quarters.
 2210. Regulations; determinations and waivers; delegation of authority.
 2211. Conclusiveness of determinations and waivers; modification; waiver of erroneous payments.
 2212. Accounts of disbursing officers making erroneous payments.
 2213. Erroneous payments under Servicemen's Dependents Act of 1942.
 2214. Discharge for hardship.
 2215. Effective date of Act.
 2216. Termination of Act.

§ 2201. Determination of dependency of parents.

For the duration of this Act [sections 2201—2216 of this Appendix] that part of the second sentence of section 102 (g) of the Act of October 12, 1949 (Public Law 351, Eighty-first Congress) [section 231 (g) of Title 37] which reads “* * * and actually resides in the household of said member” is suspended: *Provided*, That the dependency of the father or mother as required by said section 102 (g) [section 231 (g) of Title 37] shall be determined on the basis of an affidavit submitted by such father or mother, and such other evidence as the Secretary concerned may deem necessary under such regulations as he may prescribe, and no such father or mother shall be deemed dependent unless—

(1) the member of the uniformed services claiming such dependency has provided over one-half of the support of such father or mother for such period of time as the Secretary concerned may prescribe; or

(2) in the case of claimed dependency arising by reason of changed circumstances after the entrance of such member into active service subsequent to the effective date of this Act [August 1, 1950] such father or mother becomes in fact dependent upon such member for over one-half of his or her support. (Sept. 8, 1950, ch. 922, § 1, 64 Stat. 794.)

EFFECTIVE PERIOD

Effective date and termination of act Sept. 8, 1950, see sections 2215 and 2216 of this Appendix.

SHORT TITLE

Section 17 of act Sept. 8, 1950, provided that it may be cited as the “Dependents Assistance Act of 1950”.

§ 2202. Dependents of enlisted members in grades E-4 to E-1.

For the duration of this Act [sections 2201—2216 of this Appendix] the proviso in section 302 (a) of the Act of October 12, 1949 (Public Law 351, Eighty-first Congress) [section 252 (a) of Title 37], is suspended. (Sept. 8, 1950, ch. 922, § 2, 64 Stat. 795.)

§ 2203. Quarters allowances for enlisted members.

For the duration of this Act [sections 2201—2216 of this Appendix] section 302 (f) of the Act of October 12, 1949 (Public Law 351, Eighty-first Congress), [section 252 (f) of Title 37] is amended by striking out that portion of the table appearing therein which prescribes monthly basic allowances for quarters for enlisted members in pay grades E-1 to E-7, inclusive, and inserting in lieu thereof the following new table:

	Not over 2 dependents	Over 2 dependents
E-7.....	\$67.50	\$85
E-6.....	67.50	85
E-5.....	67.50	85
E-4.....	67.50	85

	1 dependent	2 dependents	Over 2 dependents
E-3.....	\$45	\$67.50	\$85
E-2.....	45	67.50	85
E-1.....	45	67.50	85

(Sept. 8, 1950, ch. 922, § 3, 64 Stat. 795.)

§ 2204. Quarters allowances and allotments of pay.

For the duration of this Act [sections 2201—2216 of this Appendix] section 302 of the Act of October 12, 1949 (Public Law 351, Eighty-first Congress) [section 252 of Title 37], is amended by adding the following new subsections:

“(g) Subject to the provisions of this section, enlisted members without dependents shall be entitled to a basic allowance for quarters at the rate of \$45 per month.

“(h) The payment of the basic allowance for quarters provided in subsection (f) of this section for enlisted members with dependents shall be made only for such period as the enlisted member has in effect an allotment of pay not less than the sum of the basic allowance for quarters to which he is entitled plus \$40 (or in the case of enlisted members in pay grades E-4 and E-5, \$60; or in the case of enlisted members in pay grades E-6 and E-7, \$80), for the support of the dependent or dependents on whose account the allowance is claimed: *Provided*, That such allotment shall not be required, (1) for the calendar month in which such member enters on active duty in a pay status if the allotment is effective from the following month; (2) for the calendar month in which such member is discharged, if not immediately reenlisted; (3) for the calendar month in which such member is released from active duty; (4) for the calendar month in which dependency ceases; (5) for the calendar month in which dependency commences if the allotment is effective from the following month; (6) for the calendar month in which such member is assigned to quarters for himself and his dependents or for the calendar month in which such assignment is terminated: *Provided further*, That such allotment may be initiated, continued, modified, or discontinued in accordance with such regulations as may be prescribed by the Secretary of the Department concerned: *And provided further*, That the